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GENERAL SECTION

ADVERTISING ON INDEPENDENT TELEVISION IN BRITAIN

by BERNARD SENDALL,

Deputy Director General of the Independent Television Authority

Something like £ 800,000 a week is at present being earned by British Independent Television from advertising. This income is wholly derived from the showing of short advertisements lasting from five seconds to two minutes each, and from occasional advertising magazines lasting from ten minutes to twenty minutes each. Just now, early November, when Christmas shopping is beginning to build up to its peak, between eight and nine per cent of total transmission time is given over to advertising. This percentage is substantially lower than the percentage of space given over to advertising by any of the great popular daily newspapers.

Public acceptance of television advertising

In my previous article, published in the April issue of the *E.B.U. Review*, I referred to the provision in the Television Act of 1954 that the amount of time given to advertising shall not be so great as to detract from the value of the programmes as a medium of entertainment, instruction and information, and I described how the Authority had implemented this by laying down that the amount of "spot" advertising should not exceed a maximum of six minutes in the hour on average in any one day. This maximum ration was fixed before transmissions began and it was of necessity somewhat arbitrary: it would have been within the competence of the Independent Television Authority to have decided upon a greater or lesser proportion.

As things have turned out this figure seems to have been about right. Since the beginning of 1957 the I.T.A. has employed an independent research organisation to conduct a series of opinion surveys in the course of which the opportunity has always been taken to test the opinions of viewers (on the basis of a nationally representative sample) about advertising on television. Over a period of eighteen months up to the middle of 1958 the division of opinion has been remarkably consistent. About twenty-three per cent of the sample at the beginning of 1957 enjoyed the advertisements, and by the middle of 1958 this figure was still twenty-two per cent. At the beginning of the period twenty-five per

cent said that they liked most advertisements but disliked some, and twenty-four per cent were saying so at the end. Twenty-three and a half per cent said at the beginning that they liked a few and disliked most and at the end twenty-two and a half per cent said so. Those who said they would rather there were no advertisements at all accounted for twenty-seven and a half per cent at the beginning and the percentage of these people at the end was exactly the same. It is perfectly clear that even those viewers who actively dislike advertisements on television and would prefer not to have them, tolerate them rather than dispense with the independent television programmes, for the I.T.A.'s current share of the total viewing audience which can receive both television services is still much larger than the B.B.C.'s: the ratio never seems to be less than 70:30.

Standards of conduct

The very success of television advertising and the appetite for it amongst producers of mass market goods makes it all the more necessary to ensure that the highest possible standards of probity are observed. The independent advisory committee which the I.T.A. set up is, to quote the language of the Act, representative of organisations, authorities and persons concerned with the standards of conduct in the advertising of goods and services. Before independent television transmissions began it drew up and published a code of standards entitled *Principles for Television Advertising*, the preamble to which reads as follows:

"The general principle which will govern all television advertising is that it should be legal, clean, honest and truthful. It is recognised that this principle is not peculiar to the television medium, but is one which applies to all reputable advertising in other media in this country. Nevertheless, television, because of its greater intimacy within the home, gives rise to problems which do not necessarily occur in other media and it is essential to maintain a consistently high quality of television advertising."

The Principles embody the code of standards which exists for all advertising media in Britain in regard to the advertisement of medicines and treatments. But, because of the view expressed in the preamble about the greater intimacy of television, the Principles impose additional restraints over the whole range of advertising—restraints which are absent from the code which governs advertising in other media. For example, there is a complete ban on all betting advertisements, including advertisements for football pools. Over and above this, the Principles list eleven classes of unacceptable products or services which range from specifics for slimming to smoking cures, products for treatment of alcoholism, and the services of money lenders and matrimonial agencies.

A whole series of principles are laid down in relation to advertising during children's programmes, of which perhaps the most important is that :

“ No product or service may be advertised and no method of advertising may be used, in association with a programme intended for children or which large numbers of children are likely to see, which might result in harm to them physically, mentally or morally, and no method of advertising may be employed which takes advantage of the natural credulity and sense of loyalty of children.”

Space does not permit my reciting all the ways in which care is taken to ensure high standards in television advertising. An interesting example of the distinction which is drawn between television and other media is the prohibition which the Principles contain on any advertising which gives the impression that a doctor or other professional person is recommending a proprietary

medicine. Inevitably, advertisers are sometimes disappointed that they are precluded from translating into television terms an advertising campaign which they are using elsewhere, but most of them readily accept this limitation because they recognise that the greater intimacy within the home of television gives rise to problems which do not necessarily occur in other media.

The *Principles for Television Advertising* goes out of its way to emphasize that its contents contain the *minimum* standards which must be observed. The programme companies are free to impose such stricter standards as they may individually choose. And, although they are precluded by the Act from unreasonably discriminating between one advertiser and another, it is not regarded as unreasonable discrimination to exclude advertisements which are considered to fall below the standards a company sets for itself.

Procedure for maintaining advertising standards

Over a quarter of a million “spot” advertisements were broadcast in independent television's third year, but not one in a thousand gave the I.T.A. itself any trouble or even so much as a qualm. It has always been the Authority's policy to avoid creating a large superstructure of bureaucratic control over the seven programme companies (it will shortly be eight) which operate under its aegis. In this it has been greatly helped by the Independent Television Companies Association. Since the 1st March this year the I.T.C.A. has operated a centralised script and copy acceptance department through its secretariat. Before making any filmed advertisement (and most, but not all, advertisements are on film) the advertising agent sends copies of the script to this secretariat. These scripts



The advertisement acceptance department of an independent television company

are routed to all the companies whether the advertisement concerned is being booked by all or not. They are stamped by the I.T.C.A. with a coloured label, black if it appears to be acceptable and red if doubtful, so that each company can, through its own acceptance department, make its own decisions. In most cases all companies reach the same decision, but when there is disagreement the normal procedure is for the question to be discussed by the I.T.C.A. Copy Sub-Committee: decisions made by this committee are reported to the full Advertisement Committee of I.T.C.A., so that by this means a growing collection of precedents and "case law" is built up.

If all this is being done by I.T.C.A., it may be asked where the Authority itself comes in. I.T.C.A.'s voluntary procedure relieves the Authority of the need for an elaborate bureau of control, and in fact enables Anthony Pragnell, the Secretary of the Authority, and myself to deal readily enough with most of the problems of interpretation which continue to arise. When important new questions of principle come up, as they still sometimes do, we invoke the final judgement of higher authority, namely the Director General, the Advertising Advisory Committee, and finally the Authority's own governing body which is appointed by the Postmaster-General. We do not, in the ordinary way, give decisions direct to advertisers or their agents about the acceptability of advertisements, but in exercising our ultimate powers of decision under the Television Act we maintain close and continuous relations with the advertising managers of the companies.

Operational rules and practices

So much for the maintenance of high standards in the actual themes and messages of the advertisements. But it has also been necessary to agree upon a body of operational rules and practices which ensure that the techniques of presenting the advertisements are fully in accordance with the provisions of the Television Act.

I can do no more than give just a few examples of what these rules and practices involve. Since anything which gave even so much as an impression to viewers that a programme was being sponsored would be contrary to the Act, the greatest care has to be taken over any advertisement which incorporates representations of familiar characters, settings, musical themes etc. from current independent television programmes. Where this device is considered allowable at all, the advertisement in question must not appear on the same day as the programme with which it has some link. There are certain familiar characters like "Noddy" and "Popeye" which have a well-known existence outside television and which are widely used in press advertising and it would be too extreme to place a total ban upon their use in advertisements. But any blatant imitation of a programme idea with the object of presenting an advertising message or slogan is not allowed; for example, an

advertiser would not be allowed to present an advertisement imitating a well-known television quiz to which the winning answer might be that advertiser's latest slogan.

For the same reason any advertisements which are presented by performers who appear in entertainment programmes must be kept well apart from such programmes. Or, again, to take an entirely different example, outside broadcast cameras at a race meeting could not be used to present a "live" advertisement delivered by the winner of a race.

Advertising magazines

Special rules exist to govern the presentation of advertising magazines, which consist of a linked series of advertisements for different products or services. Since the Television Act requires that every advertisement must be recognisably separate from the rest of the programmes, it is essential that the content of an advertising magazine as a whole must clearly and unmistakably reveal and serve its advertising purpose. Each programme must stand or fall on its genuine advertising interest and must not depend for its appeal on any element of entertainment which is not distinguishably related to the primary advertising end of the magazine. Every advertising magazine must be clearly identified as such at the beginning and the end and also in the announcements in the programme journals.

Religious and political advertisements prohibited

Under the Act the prohibition of religious or political advertising is absolute. A non-political body cannot insert a political advertisement nor can a political body insert a non-political advertisement. Thus it would not only be impossible for a private enterprise firm to insert an advertisement attacking nationalisation as a form of industrial organisation but also impossible for a political party organisation to advertise for staff or for accommodation. Likewise advertisements directed towards any religious end are totally forbidden whether they are denominational or not. Co-operative religious advertising designed to interest people in religion generally is as much forbidden as an advertisement for the Church of England or for a Roman Catholic enquiry centre.

* * *

It would be foolish not to recognise that there is in Britain, as there is elsewhere in Europe, a body of opinion which is antagonistic towards advertising. We have had to conduct British Independent Television in the knowledge that the spot-light of public criticism has never for an instant turned away from the advertising content of our transmissions. Nobody who is aware of the great strength and impact of television advertising would regard this state of affairs as anything but inevitable and healthy.

MODERN LANGUAGE COURSES

The Administrative Office of the European Broadcasting Union has prepared on the basis of information received from its members a table indicating the modern language courses on radio and television during the 1958/1959 season.

Requests for this table have been received from a number of sources and it is intended to draw up a similar table regularly each year, depending on the reception met with.

A./1306
10.58

The Director of the Administrative Office
C. GILLIÉRON

Countries and Organisations	Language	Grades	Title of broadcast	Day	Time	Period	Notes
<i>ACTIVE MEMBERS</i>							
AUSTRIA Österreichischer Rundfunk	English	Beginners and advanced		Monday	17.40–17.55	28.9.58 to 30.6.59	2nd Programme
	French	Beginners and advanced		Wednesday	17.40–17.55	28.9.58 to 30.6.59	2nd Programme
	Italian	Beginners and advanced		Thursday	17.40–17.55	28.9.58 to 30.6.59	2nd Programme
BELGIUM Institut National Belge de Radiodiffusion (I.N.R.) (French)	English	Beginners		Monday Wednesday Friday	7.15– 7.20	Oct. 58 to end June 59	
	English	Beginners and advanced alternately		Saturday Thursday ^a	16.45–17.00 14.00–14.15	Sept. 58 to end July 59	^a rebroadcast
	French	Beginners and advanced alternately		Monday Thursday ^a	18.00–18.15 14.30–14.45	Sept. 58 to end July 59	^a rebroadcast
	German	Beginners and advanced alternately		Friday Thursday ^a	17.45–18.00 15.45–16.00	Sept. 58 to end July 59	^a rebroadcast
	Flemish (V.I.R.)	Beginners		Monday Thursday	18.20–18.40 18.00–18.20	from Sept. 58 to end April 59	
		Advanced		Tuesday	18.00–18.20		
	French	Beginners		Sunday	8.20– 8.40		
	German	Intermediate		Tuesday Thursday	22.35–23.00 22.15–22.35		
	Spanish	Beginners		Monday Thursday	18.00–18.20		
	Swedish	Advanced		Sunday ^a	8.40– 9.00		^a every second Sunday
DENMARK Statsradiofonien	English	Beginners		Monday Thursday	18.20–18.40 18.00–18.20	from Sept. 58 to end April 59	
		Advanced		Tuesday	18.00–18.20		
	French	Beginners		Sunday	8.20– 8.40		
	German	Intermediate		Tuesday Thursday	22.35–23.00 22.15–22.35		
	Spanish	Beginners		Monday Thursday	18.00–18.20		
	Swedish	Advanced		Sunday ^a	8.40– 9.00		^a every second Sunday
FINLAND Yleisradio	French	Beginners		Tuesday	17.40–18.00	from 16.9.58 to spring 59	

Countries and Organisations	Language	Grades	Title of broadcast	Day	Time	Period	Notes
FRANCE <i>Radiodiffusion Télévision Française (R.T.F.)</i>	Arabic	3rd class	(*)	Tuesday	9.55	14.10.58 to 14. 6.59	France III (280 m.)
	English	1st, 2nd and 3rd grades		Tuesday	17.25–17.55	Oct. 58 to Sept. 59	France III (280 m.)
		6th class	(*)	Tuesday	9.22	14.10.58 to 14. 6.59	France III (280 m.)
		3rd class	(*)	Tuesday	9.45	14.10.58 to 14. 6.59	France III (280 m.)
		1st class	(*)	Friday	9.45	14.10.58 to 14. 6.59	France III (280 m.)
		commercial, 1st and 2nd grades	technical in- struction	Sunday	7.30		France II (347 m.)
	Esperanto			Thursday	9.30– 9.38	Oct. 58 to Sept. 59	France III (280 m.)
	German	1st, 2nd and 3rd grades		Friday	17.30–18.00	Oct. 58 to Sept. 59	France III (280 m.)
		6th class	(*)	Tuesday	9.15	14.10.58 to 14. 6.59	France III (280 m.)
		1st class	(*)	Friday	9.15	14.10.58 to 14. 6.59	France III (280 m.)
		commercial	technical in- struction	Sunday	7.50		France II (347 m.)
	Italian	1st, 2nd and 3rd grades alternated with Spanish		Wednesday	17.30–18.00	Oct. 58 to Sept. 59	France III (280 m.)
		1st class	(*)	Friday	9.35	14.10.58 to 14. 6.59	France III (280 m.)
	Spanish	1st, 2nd and 3rd grades alternated with Italian		Wednesday	17.30–18.00	Oct. 58 to Sept. 59	France III (280 m.)
		1st class	(*)	Friday	9.25	14.10.58 to 14.6.59	France III (280m.)
GERMANY <i>Hessischer Rundfunk</i>	Italian	Beginners		Monday Wednesday Friday	19.30–20.00	13.10.58 to 30.4.59	
	English	Intermediate	<i>Lernt Englisch zur Unterhaltung</i>	Tuesday Friday	17.45–18.00	permanent	
		Intermediate	English for Tourists	Wednesday	22.25–22.30		series of 12 broadca repeated twice a year
		English I		Monday	9.35– 9.50 14.35–14.50		broadcast to schoo
		English II		Friday	11.05–11.25		2nd year broadcast to schoo
	French	Beginners, intermediate and advanced students	<i>Parlez-vous Français ?</i>	Monday Thursday	17.45–18.00	weekly	3rd and 4th years course covers 52 wee starting with beginn
			Italian for Tourists			Feb. or March 59	proposal
	Italian						

* Correspondence courses of the *Centre National d'enseignement* broadcast by the R.T.F.

Countries and Organisations	Language	Grades	Title of broadcast	Day	Time	Period	Notes
MANY (ctd) Norddeutscher Rundfunk (D.R.)	Spanish	Intermediate	<i>Señoras y Señores</i>	Wednesday	17.45–18.00		
		Intermediate	Spanish for Tourists	Monday Friday	22.25–22.30		series of 24 broadcasts repeated twice a year
Radio Bremen	English	Beginners (pupils aged 12-14)		Tuesday Wednesday ^a	15.45–16.00 9.45–10.00	14.10.58 to 20. 3.59	broadcast to schools ^a rebroadcast of Tuesday's programme
		Intermediate (pupils aged 14-16)		Wednesday Thursday ^a	15.30–15.50 9.30– 9.50	14.10.58 to 20. 3.59	^a rebroadcast of Wednesday's programme
		Advanced (pupils aged 17-18)		Thursday Friday ^a	15.40–16.00 9.40–10.00	fortnightly	^a rebroadcast of Thursday's programme
Schlesischer Rundfunk	English	Beginners and advanced		Wednesday Saturday	14.15–14.30 14.00–14.15	permanent	
				Monday Wednesday Thursday	18.05–18.15 18.05–18.15 18.05–18.15	permanent	
Norddeutscher Rundfunk	Italian	Beginners		Saturday	16.00–16.20	from 3.1.59	VHF programme (irregular)
	Spanish	Beginners		Saturday	16.40–17.00	from 3.1.59	VHF programme (irregular)
Westdeutscher Rundfunk	French	Beginners and advanced		Monday Thursday	9.45–10.00	permanent	MW-VHF-I
				Monday Thursday	10.00–10.15	permanent	VHF-II
Norddeutscher Rundfunk (D.R.)	German	Beginners	<i>Lernt Deutsch bei der Deutschen Welle</i>	Monday Thursday	2.40- 2.50 GMT	each week	for North America, in American
		Advanced		Tuesday Friday	2.40- 2.50 GMT		for North America, in American
		Beginners	<i>Lernt Deutsch bei der Deutschen Welle</i>	Monday Thursday	10.00–10.10 GMT	each week	for the Far East, in English
				Monday Thursday	17.30–17.40 GMT		for the Near East, in English
				Monday Thursday	21.00–21.10 GMT		for Africa, in English
		Beginners	<i>Lernt Deutsch bei der Deutschen Welle</i>	Tuesday Friday	10.00–10.10 GMT	each week	for the Far East, in French
				Tuesday Friday	17.30–17.40 GMT		for the Near East, in French
				Tuesday Friday	21.00–21.10 GMT		for Africa, in French
		Beginners	<i>Lernt Deutsch bei der Deutschen Welle</i>	Tuesday Friday	1.00- 1.10 GMT	each week	for South America, in Portuguese
				Monday Thursday	1.00- 1.10 GMT		for South America, in Spanish

Countries and Organisations	Language	Grades	Title of broadcast	Day	Time	Period	Notes
ICELAND <i>Ríkisutvarpid</i>	Danish	Beginners and advanced	Pronunciation	Monday Wednesday Friday	18.00	Oct. 58 to May 59	
		Danish II		Tuesday Thursday Saturday	18.30	Oct. 58 to May 59	
	English	Beginners and advanced	Pronunciation	Tuesday Thursday Saturday	18.00	Oct. 58 to May 59	
				Tuesday Thursday Saturday	19.00	Oct. 58 to May 59	
	Esperanto	Beginners and advanced	Pronunciation	Monday Wednesday Friday	18.15	Oct. 58 to May 59	
	French	Beginners and advanced	Pronunciation	Tuesday Thursday Saturday	18.15	Oct. 58 to May 59	
	German	Beginners and advanced		Monday Wednesday Friday	19.00	Oct. 58 to May 59	
	Icelandic	Beginners and advanced		Monday Wednesday Friday	18.30	Oct. 58 to May 59	
			Our Daily Speech	Tuesday	20.20	Oct. 58 to May 59	
			Our Language	Wednesday	20.20	Oct. 58 to May 59	
	Spanish	Beginners and advanced	Our Daily Speech	Thursday	20.20	Oct. 58 to May 59	
				Wednesday Friday	19.30	Oct. 58 to May 59	
IRELAND <i>Radio Eireann</i>	Irish	Beginners and intermediate		Tuesday	19.00–19.30		No course planned for the 1958/59 season
NETHERLANDS <i>Nederlandsche Radio Unie (N.R.U.)</i>	English	Advanced		Saturday	17.00–17.20	27.9.58 to 31.5.59	
SWITZERLAND <i>Société Suisse de Radiodiffusion (S.S.R.)</i> <i>Beromünster</i>	French	Intermediate		Saturday	10.00–11.00	from 11.10.58	medium waves
				Tuesday Thursday	20.00	7.10.58 to 30. 4.59	VHF
Monte-Ceneri	German	Advanced		Wednesday	18.30	18.10.58 to 30. 4.59	medium waves

“English by Radio”—extensive lessons in English are presented in the following languages : Arabic, Finnish, French, German, Italian, Maltese, Persian, Polish, Russian, Serbo-Croat, Spanish, Turkish, Urdu.

Countries and Organisations	Language	Grades	Title of broadcast	Day	Time	Period	Notes
<i>BELGIAN CONGO</i> <i>Radio Congo Belge</i>	French	Beginners	Practical French	Monday Tuesday Wednesday Thursday	18.30–18.40 GMT	permanent	broadcast on 32.57 m. presented successively in Lingala, Kiswahili Tshiluba and Kikongo
		Intermediate	<i>Apprenons le français</i>	Saturday	18.20–18.40 GMT	permanent	
<i>JAPAN</i> <i>Nippon Hoso Kyokai</i> <i>(N.H.K.)</i>	Chinese	Beginners		Tuesday Friday	5.40– 6.00	permanent	
		Beginners	Grammar and Conversation	Monday Tuesday Wednesday Thursday Friday Saturday	6.00– 6.30	permanent	
	English	Beginners		Monday Wednesday	13.00–13.15	permanent	Junior High School
		Secondary		Tuesday Thursday	13.00–13.15	permanent	Junior High School
		Advanced		Friday	13.00–13.15	permanent	Junior High School
		First Grade, local		Monday Thursday	10.00–10.20	permanent	NHK High School Course
		Advanced		Wednesday Saturday	10.20–10.45	permanent	NHK High School Course
		Advanced		Wednesday	11.45–12.00	permanent	Senior High School
		Beginners		Monday Tuesday Wednesday Thursday Friday	11.15–11.30	permanent	
	German	Beginners		Monday Tuesday Wednesday Thursday Friday	11.00–11.15	permanent	
		Beginners		Wednesday Saturday	5.40– 6.00	permanent	
	Russian	Beginners		Monday Thursday	5.40– 6.00	permanent	
	Spanish	Beginners		Monday Thursday	5.40– 6.00	permanent	
	Television: English courses for Junior High School classes are presented on television on Fridays from 13.00 to 13.22 hours.						
<i>PAKISTAN</i> <i>Radio Pakistan</i>	Bengali Urdu	Beginners		Wednesday	14.30–14.40 GMT	from 2.7.58	

NEWS AND INFORMATION

INTERNATIONAL

INTERNATIONAL CONFERENCES CONCERNED WITH BROADCASTING

1959

8-15 February	UNDA *	Meeting of experts of religious television programmes	Monte Carlo
11 March	EBU	1959 Eurovision Song Contest	Cannes
Spring		Bureau of the Legal Committee, 22nd Meeting	Yugoslavia
		Working Parties GTV/1 and GTV/2	Stockholm
May		Bureau of the Programme Committee, 13th Meeting	
May		1959 Eurovision Grand Prix of Television Films	Cannes
29 May-1 June		Study Group on Advertising	London
1-15 September	Prix Italia	Administrative Council, 20th Meeting	Rome
End of September	EBU	Assembly and Meeting of the Juries	—
		Bureau of the Legal Committee, 23rd Meeting	London
		Legal Committee, 10th Plenary Session	
		Working Parties GTV/1 and GTV/2	
		Bureau of the Programme Committee, 14th Meeting	
		Programme Committee, 7th Plenary Session	
		Bureau of the Technical Committee and Plenary Session	
End of October		Administrative Council, 21st Meeting	Geneva
Beginning of December		General Assembly, 10th Ordinary Session	Morocco

* UNDA = International Catholic Association for Radio & Television.

UNITED NATIONS

Anniversary Broadcast. — United Nations Day, which falls on 24th October, was celebrated most brilliantly this year with the broadcast in perfect conditions of a special international transmission, unique in the field of broadcasting.

The broadcast concert inaugurated the first use of an international transatlantic radio hookup to present, as a single integrated performance, a three-part symphonic programme originating from New York, Paris and Geneva. The broadcast opened with Charles Munch conducting the Boston Symphony Orchestra in the General Assembly Hall of the United Nations in New York, followed by the UN Day message delivered by Mr. Hammarskjöld, Secretary-General of the United Nations. The part of the programme from New York ended with a moving performance of Bach's Sonata No. 2 in D. Major for violincello and piano by the distinguished artists Pablo Casals and Mieczyslaw Horszowski. The international radio hookup then switched to Unesco in Paris to pick up from the Salle Pleyel the performance by the celebrated Indian musician Ravi Shankar, and Bach's Concerto for Two Violins by David Oistrakh and Yehudi Menuhin with the Chamber Orchestra of the Radiodiffusion Française conducted by Pierre Capdevielle. Finally, the broadcast turned to the UN Day concert being given in Geneva to hear the work which traditionally forms the climax

to the celebration of this anniversary : the final movement of Beethoven's Ninth Symphony performed by the Orchestre de la Suisse Romande under its eminent conductor Ernest Ansermet, with well-known British soloists and Swiss chorus.

The EBU was invited to associate itself with the offer of this programme to its members, who responded in large numbers, most taking the broadcast live and the rest deferred relays in view of their geographical situation. In all, 74 countries broadcast what proved to be one of the outstanding events of the year in the field of international cooperation, hailed on all sides as a triumph for broadcasting.

UNESCO

World-Wide Audience for Opening of New Headquarters. — The official opening of the new Unesco House in Paris, Place de Fontenoy, on 3rd November was seen by television viewers in 31 countries in Europe, North and South America, Asia and Oceania, either by direct relay or on film. The ceremony, at which the President of the French Republic was present, was broadcast live by the RTF and relayed through Eurovision to seven countries in Europe. In addition to coverage by newsreel organisations, the RTF also produced a 20-minute film which was despatched by air, 48 hours after the ceremony, to television stations in 23 countries.

The new headquarters, a group of three buildings, possesses five radio and television studios and a film projection room.

BRITISH COMMONWEALTH INTERNATIONAL NEWSFILM AGENCY

Continental Office Opened. — The British Commonwealth International Newsfilm Agency Ltd., formed in March last year by the British Broadcasting Corporation, the Rank Organisation, the Australian Broadcasting Commission and the Canadian Broadcasting Corporation¹, announced the opening in October of its continental office in Hilversum, Holland.

Speaking on the opening of the Hilversum office, the managing editor of the Agency, Mr. Kenneth Dick, said that it marked the beginning of the second major stage in the Company's development. The first 18 months had been spent largely in building up its sources of supply. Ten staff cameramen were now working in Europe and they formed part of a network, completed by free-lance cameramen, television organisations, cinema newsreels and film producing companies, which stretched round the world and provided a daily service of news on film from every part of the globe.

The company has been fully operative for about a year and a number of notable events has been covered. Newsfilm is now supplied regularly to the United Kingdom, Australia, Canada, Holland, Switzerland, Hongkong, Cyprus, Japan, Mexico, Russia, Germany, France, and other countries.

The new continental office has "unrivalled" film producing and processing facilities, Mr. Dick stated, and it would improve still further the Agency's film supply from Europe and enable it to give European television stations a more personal service than was possible from London.

"BUREAU EUROPÉEN DE LA JEUNESSE ET DE L'ENFANCE"

Second International Symposium. — The second meeting² organised by the European Bureau for Youth and Childhood (*Bureau Européen de la Jeunesse et de l'Enfance*) on the educational aspects of television was held in London in August of this year, under the chairmanship of the Director-General of the Bureau, Mr. Jacques de Launay. Mr. Renaud Strivay, Secretary-General of the *Société d'Etude et d'Expansion de la Télévision*, has described the meeting in the Association's October Bulletin.

After the opening speech by Mr. de Launay, a report on the Bureau's achievements in the field of television for schools was read by Mr. Strivay, head of the television services of the Bureau, followed by an account of the work being done in connection with educational films.

¹ See *EBU Bulletin* No. 42, page 197.

² For a report of the first meeting, see *EBU Bulletin* No. 46, page 731.

Among other papers read were those of Mrs. Puglisi of the RAI on the plans for a television school due to be put into effect in the autumn; Mr. Hauk of the Austrian television service on the production in Vienna of programmes for children; Mr. Ogren, head of schools television in Sweden, on recent experiments carried out by Swedish television in Stockholm; Mrs. Begiebing, head of Westdeutscher Rundfunk's broadcasts to schools, on television's possibilities in the school; Mr. Dieuzeide, head of schools television in France, on French achievements; and Mr. Schenker, assistant director of Swiss television, on Swiss plans for introducing television broadcasting to schools.

One afternoon was devoted to a visit to the BBC studios, in the course of which a lecture was given by Miss Enid Love, head of BBC school broadcasting (television), and samples were shown to the experts of programmes previously broadcast in the schools series. The ITA studios were also visited and Mr. John Mackay of Associated-Rediffusion spoke of his work in the field and also showed extracts of programmes broadcast by the company to schools.

The third international symposium on schools television is to be held next year in Rome with the cooperation of the RAI.

COMMUNITY OF FRENCH-LANGUAGE RADIO PROGRAMMES

Radio Awards at Brussels Exhibition. — The Grand Prix of French-Language Radio Plays³, organised by the French broadcasts' section of the Belgian radio on the occasion of the Brussels Exhibition, has resulted in the award of the prize of 50,000 Belg. frs. to a work entitled *Fac-simile* by the Belgian author, Désiré Fernex. Ninety-four entries had been sent in from Belgium, Canada, France and Switzerland.

The jury, under the chairmanship of Mr. Herman Closson, President of the Belgian section of the *Société des Auteurs et Compositeurs Dramatiques* (SACD), was composed of representatives of the four broadcasting organisations of the Community of French-language Radio Programmes: Mr. Paul Gilson, director of the RTF artistic services (France), Mr. Géo Blanc, head of Radio Lausanne's drama broadcasts (Switzerland), Mr. Jean Beaudet, permanent representative of Canadian broadcasting in Europe (Canada), and Mr. Maurice Hankard, director of French spoken word broadcasts, Mr. Robert Georgin, head of the Liège studio, and Mr. Jean Mogin, head of the literary and dramatic service, all from Belgium.

The winning play is to be broadcast by the four organisations of which the Community is composed.

The second award, which was announced during a public broadcast from the Brussels Exhibition and had also been referred to in our last issue, was made in connection with the children's singing games competition.

³ See *EBU Review* No. 51b, pages 9-10.

The jury, consisting of Mr. Paul Gilson and Mr. Philippe Soupault of the RTF, Mr. Paul Vallotton and Mr. Franck Guibat of Radio-Lausanne, and Mr. Roger Pinon and Mr. Robert Wangermee of the INR, chose the entry *Femina Goda* from Switzerland as the most original of the 7,000-odd singing games submitted, and a Belgian entry, *Le Calimalifrotteur*, was placed second.

The final broadcast at which the prize list was read was given on 12th October in the small auditorium of the Exhibition with the help of the INR Chamber Orchestra and choirs from the RTF and Lausanne, the latter in folk costume.

INTERNATIONAL COUNCIL FOR FILM AND TELEVISION

Constitution of Council and Election of Bureau. — Delegates from 24 international organisations in the fields of television and the cinema met at Unesco House from 21st to 23rd October and decided to form an International Council for Film and Television. The new Council has been set up to enable its members to co-operate and to coordinate activities.

A Bureau was elected whose task will be to draw up a clear-cut programme for submission to an extraordinary General Assembly to be held at the beginning of 1959.

Mr. John Maddison was appointed Chairman of the International Council for Film and Television, and Mr. Jean d'Arcy Vice-Chairman. The nomination of Mr. Jean Benoit-Levy as delegate-general of the Council was ratified.

INTERNATIONAL SOCIETY OF MUSIC EDUCATION

Third International Conference. — The International Society of Music Education, in cooperation with the Danish National Commission for Unesco, the Danish Section of the International Music Council and the Nordic Music Pedagogical Union, organised in Copenhagen from 31st July to 7th August 1958 the Third International Conference on Music Education. More than 400 musicologists, music educators, musicians, radio and television specialists and administrators from five continents and 31 countries were present.

Participants were given the opportunity to study the rich variety of printed materials and audio-visual aids available in the field of music education, and an exhibition by commercial firms from ten countries showed musical instruments, tape recorders, microfilm-projectors, etc. The three main topics discussed were: *a*) reports on the present state of music education in the world; *b*) music in the Orient and Occident as an instrument of international understanding; and *c*) the role of technical media in music education.

In the resolutions passed at the end of the conference, Unesco's assistance was requested to facilitate the

exchange of audio-visual materials between the Occident and the Orient and of television and radio programmes on music education.

PRIX ITALIA 1958

Reports of the 1958 Juries. — In conformity with Article 18 of the Statutes, the jury called upon in 1958 to award the Prix Italia, the prize offered by the Radiotelevisione Italiana and the prize offered by the Italian Press Association, was divided into three sections: musical, literary and dramatic, and documentaries.

MUSIC SECTION

The jury for the music section, formed by Mr. Herbert Cannon (Australian Broadcasting Commission, Chairman), Mr. Heinrich Kralik (Österreichischer Rundfunk), Mr. Fachtna O'hAnnrachain (Radio Eireann), Maestro Giulio Razzi (RAI), Mr. Jean Luc (Radio-Télé-Luxembourg), and Mr. Roman Jasinski (Polish radio), selected among the 13 entries submitted:

by a majority vote, for the **Prix Italia** (15,500 Swiss francs) —

Three Images in Words and Music, music by Toru Takemitsu, Hikaru Hayashi and Yoshiro Irino, submitted by Nippon Hoso Kyokai, Japan;

by unanimous vote, for the **Radiotelevisione Italiana Prize** (1,125,000 Lire) —

Gulliver's Strange Adventure in Lilliput, a radiophonic ballet by Philippe Soupault, music by Serge Nigg, submitted by the Radiodiffusion-Télévision Française.

LITERARY AND DRAMATIC SECTION

The jury for the literary and dramatic section, composed of Mr. Paul Gilson (RTF, Chairman), Mr. Oswald Doepke (Arbeitsgemeinschaft, German Federal Republic), Mrs. Leah Porath Goor (Israel Broadcasting Service), Mr. Elias Bomli (NRU), Mr. Pedro de Moura e Sa (Emissora Nacional, Portugal), Mr. Brunius (Sveriges Radio) and Mr. Donald McWhinnie (BBC), selected among the 21 entries submitted:

by a majority vote, for the **Prix Italia** (15,500 Swiss francs) —

One Evening in Late Autumn, by Friedrich Duerrenmatt, submitted by the Österreichischer Rundfunk;

by a majority vote, for the **Radiotelevisione Italiana Prize** (1,125,000 Lire) —

The Bird, a radio story by Aleksandar Obrenovic, submitted by the Yugoslav Radio.

DOCUMENTARIES

The jury for documentaries, formed by Mr. Maurice Hankard (INR, chairman), Masatake Akagi (NHK,

Japan), Mr. Robert Schick (Radio Monte-Carlo), Mr. Stelio Molo (SSR), Mrs. Ruby Mercer (National Association of Educational Broadcasters and Broadcasting Foundation of America), and Mr. Emil Smasek (Jugoslav Radio), selected from the 8 entries submitted :

by a majority vote, for the Prize offered by the **Italian Press Association** (1,000,000 Lire) —

Seclusion, by Sergio Zavoli, music by Ildebrando Pizzetti, presented by the RAI.

HUMAN RIGHTS PRIZE

In commemoration of the tenth anniversary of the Universal Declaration of Human Rights, Unesco placed at the disposal of the juries for literary and dramatic works and for documentaries a special prize, amounting to \$1,000, to be called "The Human Rights Prize". This was awarded by a majority vote to

Anne Frank — Trace of a Child, a documentary by Ernst Schnabel, submitted by the ARD, German Federal Republic.

TELEVISION

The report of the jury for the 1958 Prix Italia for Television, presented by the chairman, Mr. Jean d'Arcy (RTF), gives the names of the other members of the jury as follows : Mr. Hutchison (ABC), Mr. Freund (Österreichischer Rundfunk), Mr. Bal (INR), Mr. Jedele (ARD), Mr. Pugliese (RAI), Mr. Akagi (NHK), Mr. Luc (Radio-Télé-Luxembourg), Mr. Schick (Radio Monte-Carlo), Mr. Van de Veen (NRU), Mr. Werner (Polish Radio and Television), Mr. Hahr (Sveriges Radio), Mr. Haas (SSR), Mr. McGivern (BBC) and Mrs. Mercer (NAEB and BFA). They selected from the 24 entries submitted :

by a majority vote, for the **Prix Italia for Television** (2,000,000 Lire) —

The Island of Favignana, by Carlo Alberto Chiesa, a documentary presented by the RAI;

by a majority vote, for the **Prize of the City of Venice** (500,000 Lire) —

Glacier Pilot, by Jean-Jacques Lagrange, a documentary presented by the SSR.



Editions d'Art Yvon, Paris

CHRISTMAS MASS FROM THE MONT SAINT-MICHEL

Midnight Mass on the 25th December will be transmitted by the Radiodiffusion-Télévision Française from the Mont Saint-Michel and will be relayed by most of the Continental television organisations.

NATIONAL

AUSTRIA

Introduction of Commercial Television Programmes. — Advertising is to be introduced on Austrian television on 1st January 1959. The tariffs and regulations governing the use of advertising have just been published and they show that the intention is to start with short "spots" which may not be broadcast more than five times in all.

The time fixed for the showing of television commercials is between 19.30 and 20.00 hours. They may also be broadcast in the interval before the start of the main programme, but not after 21.00 hours.

Homage to Joseph Haydn. — The Österreichischer Rundfunk is broadcasting a cycle of 16 concerts devoted to the work of Haydn, to be spread over the whole season from 27th October 1958 to 31st May 1959, date of the 150th anniversary of the Austrian composer's death.

Broadcasting organisations which agreed to contribute to this homage to Haydn are : the Czech radio, the RTF, Bayerischer Rundfunk, Sender Freies Berlin, Hungarian Radio, the RAI, the BBC, and Radio Centre Moscow. The programmes, which have been arranged as far as possible in chronological order, have an international flavour in that they are given with the cooperation of orchestras, soloists and choirs from a number of countries. These include the Vienna Radio Orchestra, the Vienna Concert Quartet and the Chamber Music Ensemble of the Österreichischer Rundfunk-Radio Vienna, the Symphony Orchestras of the RTF, Hungarian Radio, the RAI and the BBC; the Moscow Radio Quartet and the Prague Chamber Orchestra.

The works to be heard are performed under the distinguished conductors : Miltiades Caridis (Vienna), Hans Gierster (Munich), Anton Heiller (Vienna), György Lehel (Budapest), Gottfried Preinfalk (Vienna), Kurt Richter (Vienna), Manuel Rosenthal (Paris), Mario Rossi (Turin), Albert Simon (Budapest), Rudolf Schwarz (London), and Kurt Wöss (Vienna).

BELGIUM

Flemish Television : The First Five Years. — A report on the activities of the Flemish television service during its first five years of operations has been sent to us from the Belgisch Nationaal Instituut voor Radio-Omroep (NIR).

Belgian television was officially inaugurated on 31st October 1953 with the start of an experimental service of French and Flemish programmes from two studios in the premises of the Institut National Belge de Radio-

diffusion (INR)¹. From the outset it was decided that Belgian television would use the 819-line system for French transmissions and the 625-line system for Flemish transmissions, and manufacturers concentrated on producing sets capable of receiving both programmes, where the geographical situation permitted².

From a total of 12 hours per week in the early days, Flemish television had increased its broadcasting time to an average of 30 hours a week by the end of 1957 and during the Brussels Exhibition this total had risen to 50 hours. With the close of the Exhibition, it was intended to maintain a maximum weekly output of 34 programme hours, excluding Eurovision transmissions.

Of the 30 hours broadcast each week prior to the Exhibition, about 80% was devoted to programmes produced by the Flemish service and about 9% to Eurovision transmissions; roughly 11% consisted of relays from other stations, including approximately 6.5% from the Netherlands television service.

A study of the programmes offered by Flemish television in 1957 shows that the total transmission time amounted to 1,513 h. 30 mins., whereof 259 h. 15 mins. for news and commentaries, 80 h. 10 mins. for drama and literature (including 9 original Flemish works), 103 h. 30 mins. for light entertainment, 69 h. 25 mins. for documentaries, 80 h. 35 mins. for children's programmes, 128 h. 20 mins. for cultural and educational programmes, 306 h. (or 20% of programme time) for films, excluding newsreels.

Television production in 1958 has been greatly influenced by the World Exhibition. Every day, including holidays, programmes were broadcast for 1½ hours in the late afternoon in addition to the normal evening programmes, and many of these transmissions were naturally devoted to this important event and the visitors in Brussels for the occasion. These afternoon programmes have now stopped with the closing of the Exhibition.

Broadcasts to Schools. — Mr. Jules Ghaye who is in charge of school broadcasting in Belgium has commented on the present situation in the review *Micro Magazine* of 16th November. He believes that these programmes can create a psychological climate that is most beneficial to teaching. He quotes the case of teachers who have discovered that something repeated as many as ten times in class has only to be mentioned *once* in a broadcast programme to be remembered and learned.

The statistics of school broadcasting in Belgium are eloquent. In June 1950, 87 schools listened to the programmes. A year later, the figure was 293 and by

¹ See *EBU Bulletin* No. 22, page 741.

² See *EBU Bulletin* No. 23, page 67.

January 1953 there were 766 listening schools. Each year showed substantial increases: 1097 in 1954, 1300 in 1955, and the last figure for June 1958 was the highest yet achieved and stood at 1600.

Since 1954, these broadcasts have been followed not only by Flemish and Walloon schools but also by schools in 13 French departments, the Netherlands, Germany, and even in Wales.

CANADA

New Broadcasting Act. — Both Houses of the Canadian Parliament have passed a new Broadcasting Act which has not yet been proclaimed and hence is not yet operative, but no doubt proclamation will not be long delayed.

The Act, which is called the *Broadcasting Act* and which repeals the *Canadian Broadcasting Act*, is divided into three parts, the first of which deals with the setting up of a Board of Broadcast Governors, the second with the Canadian Broadcasting Corporation and the third with certain matters of routine, *i.e.* transitional provisions and repeals.

The Board, consisting of three full-time members and twelve part-time members, to be appointed by the Governor in Council, will regulate the establishment and operation of networks of broadcasting stations, the activities of public and private broadcasting stations in Canada and the relationship between them and provide for the final determination of all matters and questions in relation thereto. A person is not eligible to be appointed or to continue as a member of the Board if he is not a Canadian citizen, or if, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise, he is engaged in the business of broadcasting or has any pecuniary or proprietary interest in a broadcasting station or in the manufacture or distribution of radio apparatus.

The Minister of Transport, before issuing any licences or regulations under the *Radio Act*, will refer the respective application or regulation to the Board for recommendation.

Within three months after the end of each financial year, the Board will submit a report which will be laid before Parliament.

(So far the CBC itself, a publicly-owned body, has had a regulatory function over the whole of broadcasting in Canada, which includes many private television and radio stations, and, apart from parliamentary control, it has been its own master. The Fowler Commission, appointed in 1955, recommended in 1957 that a board of broadcasting governors, independent of the CBC, should be established and be responsible to Parliament for the direction and supervision of the Canadian broadcasting system¹. The new Broadcasting Act has

adopted this recommendation and has at the same time ensured that the CBC would continue as a public body, providing a national broadcasting service.)

CBC Board and Overseas Representatives. —

Following upon the new *Broadcasting Act* described above, the names of members of the Board of the Canadian Broadcasting Corporation have been announced. Mr. J. Alphonse Ouimet, general manager of the CBC, becomes its president and general manager, and Mr. Ernest Bushnell is vice-president and assistant general manager. There are nine other members of the Board.

Mr. Marcel Ouimet, lately assistant director of programmes at the CBC in Ottawa, has been appointed CBC representative in Paris. He took up his new duties last October with the help of an assistant and a journalist who is acting as Canadian radio correspondent in the French capital.

The CBC representative in London is Mr. Don Bennett.

DENMARK

Statsradiofonien's Annual Report for 1957-58. —

It can be seen from Statsradiofonien's *Beretning*, the annual report of the Danish State Radio, that income for the year ended 31st March 1958 amounted to 30,969,311 kr. as against 27,182,100 kr. for the previous year and expenditure totalled 31,226,191 kr. as against 28,043,309 kr. the year before. The accounts thus show a deficit of 256,880 kr. compared with the deficit of 861,209 kr. in 1956-57.

The breakdown of expenditure into main headings was as follows:

Administration	3,164,016
Operations (programmes)	14,400,540
Station expenses (technical)	5,860,438
Subscriptions, etc.	195,714
Expenditure on real estate	895,206
Anti-interference measures	453,027
Contribution to cultural fund	325,000
Other and unforeseen expenditure	871,478
Depreciation	471,384
Extraordinary amortisation	4,589,383
	<u>31,226,191</u>

Radio programme costs included the following:

Orchestras, conductors	2,349,950
Ensembles, soloists	3,600,448
Drama and talks	1,524,216
School broadcasts	240,938
Shortwave broadcasts	126,565
Authors' and composers' royalties	2,044,679
News agency fees	741,573
Purchase and maintenance of instruments, records, etc.	231,794

At the end of the year the staff numbered 629, belonging to the following departments: administration 130, programmes 133, technical 157, television 58, anti-interference measures 17, symphony orchestra 99 and light orchestra 35.

¹ For earlier history of the Fowler Commission and the proposals for the setting up of an independent regulatory board, see *EBU Bulletin* No. 32, p. 426; No. 35, p. 114; No. 44, p. 441.

The radio programme hours during the year totalled 6800, an increase of 1 over 1956-57; 41.2% of this time was devoted to music, 16.7% to news and 10.1% to talks. The total television broadcasting time was 649 hours, of which 230 were taken up by film transmissions, 125 by live reportages, 84 by broadcasts for children and 45 by Eurovision relays.

FINLAND

Broadcasting Activities in 1957. — Mr. Einar Sundström, director-general of Oy. Yleisradio Ab., has sent us a report on some of the Company's activities during 1957.

The sum of 1,225.4 million FM was obtained from broadcast receiving licences, whereof 138.2 m. was transferred for capital expenditure. Operational expenditure included 350.8 m. FM for programmes and 395.6 m. for engineering. Television accounted for expenditure of 46.9 m. FM.

At the end of the financial year 1,111,877 broadcast receiving licences were paid, resulting in a listener density of 256.5 per 1,000 inhabitants. During the previous year, when licences numbered 1,066,478, the listener density was 248.7‰.

The general programme in Finnish totalled 4,650 hours, a slight rise over the year before, and the Swedish programme 1,178 hours, rather less than in the previous year. Music made up 54% of the Finnish programme and 43.2% of the bi-lingual programme. In addition to the general programme, the VHF stations transmitted 638 h. 50 mins. in Finnish and 298 ½ hours in Swedish; of the former programme, 88.8% was music and of the latter, 54%.

Four new VHF stations brought the total number of all stations to 50. Almost all the listeners (95%) live within range of VHF transmissions and about 40% of them possess a VHF receiving set.

Television test transmissions began during the year under review ¹.

Progress of Television. — A regular television service was introduced at the beginning of the year ² and at present there are 12 hours of programmes a week, half of which are on film, spread over five evenings. A television vehicle has recently been taken into service, making it possible to have approximately two outside broadcasts a week. The van was first used for reporting on the athletics competition between Sweden and Finland.

Looking to the future, it is hoped to have four transmitters operating shortly which will bring some 2 million people within the service area, or about half of the population of the country.

A radio and television exhibition held in Helsinki in September was attended by 32,000 visitors. Fifty exhibitors, including 15 importers who represent 91 foreign firms, displayed 316 radio sets and 150 television sets.

FRANCE

School Television. — A brochure entitled *Télévision Scolaire 1958-1959* ³ published by the Institut Pédagogique National gives a most interesting sidelight into the workings of the television service for schools in France. We have kept our readers informed of the progress of school broadcasting in our earlier numbers ⁴ and take the opportunity to bring them up to date with developments in this field.

Television programmes for schools in France are planned by the ministerial committee for school television, prepared by the television service of the Institut Pédagogique National, and produced in the studios of the RTF under the direction of its producers and technicians. Film reportages are provided by the Audio-Visual Centre at Saint-Cloud.

Each week the Institut prepares four 30-minute broadcasts which are produced by the French television service and broadcast on Mondays, Tuesdays, Wednesdays and Fridays from 14.00 to 14.30 hours. During 1957-58, approximately 3,000 schools viewed these programmes regularly, which represents about 100,000 children.

The Institut issues a number of publications whose purpose is to help teachers and pupils to make the best use of the programmes offered. These include: an annual syllabus; a quarterly programme calendar containing details on the contents and possible uses of each programme, to be hung on the wall of the classroom; the weekly column in the review *L'Education Nationale* giving last-minute information and hints on the best ways of integrating the broadcasts to the normal school routine; teacher's notes published in the bi-monthly supplement of the above review under the title *Documents pour la Classe*, to be used in connection with broadcasts to primary schools; and similar notes to be used as guides to the programmes for secondary schools, which are sent to schools by the television service of the Institut on request.

In addition to the subjects of the broadcasts mentioned in our last report in No. 47 b, it is intended to introduce experimental programmes on the learning of English, Spanish and German. These broadcasts are to be given in the second term and will last for 15 minutes each.

Study conferences are to be organised in the course of the school year for producers of television broadcasts to schools and the teachers who use the broadcasts.

³ See notice on page 25 of this number.

⁴ See *EBU Review* No. 47b, page 19, and *EBU Bulletin* No. 42, page 205.

¹ See *EBU Bulletin*, No. 44, page 485.

² See *EBU Review* No. 48a, page 23.



(Photo C.N.D.P., CAV-St Cloud)

French school-children in class during a television broadcast

GERMANY (Federal Republic)

President of the ARD for 1959. — Professor Friedrich Bischoff, *Intendant* of the Südwestfunk, Baden-Baden, will take over the office of President of the Arbeitsgemeinschaft for the year 1959 in succession to Dr. Franz Stadelmayer, *Intendant* of the Bayerischer Rundfunk, Munich, who held the office during 1958.

Seventh International Music Competition. — The West German broadcasting organisations held their seventh International Music Competition in Munich from 5th-16th September. From *fff-Press* we see that contestants came from 16 European countries, from the United States and South America as well as from other countries overseas to be tested in the following branches : singing, piano, harpsichord, bassoon, trumpet, violin and violin/piano duet. The jury was composed, as in earlier years, of well-known musicians, music teachers and representatives of the broadcasting organisations. Owing to the severity of the tests, a first prize could not be awarded in all cases. Those who did win prizes came from Austria, Belgium, France, German Federal Republic, Hungary, the Philippines and the United States.

In the minds of the organisers of this competition, the interest lies not only in the artistic standard of the contestants but also in the opportunity given for personal contact between the young performers, the exchange of

experience and the possibilities of comparison among the different conceptions.

No Television for Children under Six. — From 1st November, afternoon television in West Germany will show only programmes for children from 7-12 years of age, for young people over 12, and for family viewing. Research—which, though not extensive, is impressive—and experience have led the Standing Programme Conference to the conclusion that children under six, or better under seven, should not see television at all.

Readers will remember the recommendations of the International Catholic Association for Radio-Television (UNDA) in their television code for educators¹, which stressed the fact that television was usually beyond the receptive powers of a child under five or six years of age.

Third Programme of the NDR. — The 1958-59 season of the Norddeutscher Rundfunk's Third Programme opened on 1st October with a new arrangement of Monteverdi's *Il Ritorno d'Ulisse in Patria*. This "highbrow" programme will start at 20.00 hours every evening during the winter instead of at 20.15 as last year, and will run until approximately 22.00 hours. The system set up in the previous winter season will again be followed, in that transmissions of particular series will be given on the same day of the week, and

¹ See *EBU Review*, No. 49b, page 16.

once a week one of the NDR's sister organisations will be the guest programme-giver.

There is no central editorial staff for the Third Programme; all departments of the NDR provide material for it under the control of the programme director, Dr. Arnold.

Listener research, we read in *Kirche und Rundfunk*, has shown that the majority of listeners to the Third Programme are aged between 20 and 35 years. This interesting result will naturally be taken into account in planning the season's programmes.

Approval of Supplementary Budgets. — The Broadcasting Councils of two of the West German organisations, Radio Bremen and Sender Freies Berlin, have approved supplementary budgets for the current financial year which will to a large extent be spent on developing the television services of the two organisations.

The supplementary budget of the **Sender Freies Berlin** amounts to 2,275,000 DM, bringing the total budget for the year 1958/59 to 22.5 million DM compared to last year's total of 19.5 million DM. The additional income comes mainly from the increase in the number of radio and television licences and from commercial broadcasting. The sum of 1,305,000 DM goes to television, and 583,000 DM will be used for a staff increase of 70 persons in the programme and technical departments where many of them are already working as relief staff. The total amount to be spent on television during the current financial year is 6.2 million DM as against 3.8 million DM in the year 1957/58. Of this sum, 3.8 million DM can be covered by income from television licence fees.

Radio Bremen adds to its budget by 381,000 DM, raising the total to 7.28 million DM. The increase is due chiefly to the higher income from television licence fees and to commercial broadcasting. Most of the additional income will be used for extending the television service, and facilities will be provided for a mobile news unit in order to do justice to the growing importance of Bremerhaven as one of the Republic's busiest harbours.

GERMANY (Democratic Republic)

Extended Television Hours. — According to a report in *Funk-Fachhändler*, the East German television service extended its weekly programme time from 33 to 42 hours with effect from 7th October. Morning transmissions run from 11.00 hours to 12.30 hours and show mainly repeats of the evening programmes for the benefit of shift workers. Children's television lasts for half-an-hour from 16.00 hours, and at 19.00 the main evening programmes begin. These continue until 22.30 and conclude with the third daily showing of *Aktuelle Kamera*, the news report. Some of the intervals in the day's transmission are filled with cultural films. At weekends the programme time varies slightly.

The programme extension coincides with the sale of the 250,000th television receiver, which brings the Democratic Republic into fifth place in the European television

count. As the programme can also be received in Denmark, transmissions include a weekly news report in Danish.

ITALY

Death of Pope Pius XII and Coronation of Jean XXIII. — Between 8th October, when Pope Pius XII died, and 4th November, the coronation day of Pope Jean XXIII, the RAI arranged—apart from its numerous domestic programmes—six remarkable transmissions covering these events which enabled viewers in twelve Eurovision countries to follow the ceremonies closely. The quality of the pictures was excellent and comments from many lands show the gratitude of viewers for the RAI's great effort.

On 8th October an 18-minute programme covered the death of Pius XII at Castelgandolfo, and two days later a live transmission of over three hours showed the procession carrying his body from St. John Lateran to St. Peter's. His funeral in St. Peter's on 13th October was covered by nine cameras and the transmission lasted for one and a half hours. Holy Mass was celebrated in St. Peter's on the 19th and this event was shown to viewers with the aid of six cameras for about two hours. Then three cameras were permanently set up in St. Peter's Square to catch such features of the Conclave as were public and to show the white smoke after the election of the new Pope on the 28th and the subsequent appearance on the balcony of Pope Jean XXIII. The sixth and last transmission showed the splendour of his coronation on 4th November, fourteen cameras being in use for this ceremony which lasted more than four hours.

Almost all these events were relayed live by the twelve countries of the Eurovision network (representing sixteen organisations), and in addition there were numerous unilateral and bilateral programmes.

Wired Broadcasting Service Starts. — On 1st December Italy's new wired broadcasting service was opened in Rome, Milan, Naples and Turin¹. Six channels are available, the first five transmitting respectively the National Programme; the Second Programme and also *Notturmo dall'Italia* from 23.35-06.35 h.; the Third Programme and a special programme *Antologia musicale* composed of lyrical and classical music; a transmission entitled *Auditorium* comprising two different programmes of serious music; and a six-hour programme of light music. The sixth channel is held in reserve for special transmissions. The programmes on the third, fourth and fifth channels are not continuous and for the most part are not given at the same times.

No supplementary fee is payable for the new service provided the subscribers have already paid their radio or television and telephone fees. The installation neces-

¹ The EBU Administrative Office undertook an enquiry into the wired broadcasting systems of its members and the information obtained is available to members upon request.

sary in each home to separate the telephone from the wired broadcasting service will however be paid for by the listener.

A special illustrated booklet has been prepared which is available to all would-be subscribers to explain the system, and a supplement to the weekly programme journal *Radiocorriere* gives all details of the new daily programmes.

“Television School.” — On 25th November the RAI began an experimental year of *Telescuola*, a supplementary school education on television which is designed not for the schools themselves but for pupils who have had, for various reasons, to leave school at the age of 14 when compulsory education finishes. The pupils may have had to finish school at 14 in order to go out to work, they may live in outlying districts, they may come from specially poor families, or they may by now be too old to go to a normal school. The course is intended to fit them for a better job than they would otherwise be able to obtain, and instruction is given in the following subjects: Italian, history, geography and civic education, mathematics, scientific subjects, French, technical design and exercises. These half-hour lessons are broadcast at the rate of two a day, excepting Sundays and holidays, and in addition there is a weekly programme of religious instruction.

The first experiment will run until the end of June 1959, after which the pupils may present themselves at any State school for examination. If the experiment is successful there will be two courses at different grades in the following year. The Edizioni Radio Italiana is bringing out text books which will be closely followed by the teachers in charge, all of whom have been recommended by the Ministry of Education.

It is hoped that this experiment will give rise to the setting up of many “listening posts” throughout the country where pupils can find help in their work and have their written exercises corrected. These posts will be encouraged by the Ministries of Education and of Labour and by the welfare centres, and those who produce the best results will be awarded prizes.

NEW ZEALAND

NZBS Annual Report 1957-58. — The report of the New Zealand Broadcasting Service for the year ended 31st March 1958 describes the year as one of the most successful in the history of the Service. Four factors contributed to the increase in revenue: a drive for new licences; changes in the advertising schedules and in advertising rates; the opening of two new commercial stations; and the inclusion of a limited number of advertisements in the programme of certain stations in Auckland and Wellington.

Steps taken to check registrations of radio sets resulted in a rise in the licence figure from 522,619 on 31st March 1957 to 552,278 on the corresponding date in 1958.

The total programme transmission time of all stations during the year under review was 146,315 hours. Just under two-thirds of all broadcasting time on national stations is given to musical programmes, and in commercial programmes the emphasis is placed on entertainment. Interest and variety was added by the contributions of broadcasting organisations in other countries. In serious music, the Service received material for 18 programmes under the title *Bach, Citizen of Two Worlds* and recordings of Wagner operas from Western Germany as well as recordings from Switzerland of the concerts presented by the National Society for Contemporary Music. Other programmes were received from broadcasting organisations in the United States, Japan, Belgium, Radio Free China, France, Israel, and Czechoslovakia, as well as from the countries of the Commonwealth. Local artists again figured prominently in studio recitals: 27,371 payments were made to 3,672 individuals or groups.

Reports from the Service's representative in the Antarctic made broadcasting history. The cooperation given him by Dr. Vivian Fuchs, Sir Edmund Hillary and members of the expedition enabled listeners to follow the progress of several field parties, largely through the voices of the explorers taking part.

The overseas service, Radio New Zealand, directed primarily to Australia and the Pacific Islands, broadcast for 14½ hours daily to listeners in Australia and 17½ hours daily to those in the Islands. Special efforts were made by Radio New Zealand during the year to cater for two groups of New Zealanders away from their homeland: the members of the New Zealand Antarctic Expedition and servicemen in Malaya. The programmes for the first group were particularly successful and were broadcast over a special aerial and on selected frequencies.

The greater sales of time on a network basis, together with the opening of the two new commercial stations and limited advertising on certain other stations combined to produce by far the most successful year so far as advertising revenue is concerned. This reached the record figure of £1,217,179, compared with £1,027,898 for the previous year, an increase of £189,281. The accounts of the Service as a whole show a surplus in each of the major activities and also in the concert tours of overseas artists. The respective figures with 1956-57 comparisons are as follows:

	1957-58	1956-57
	£	£
Commercial stations . . .	297,945	192,867
<i>New Zealand Listener</i> . .	3,929	12,382
National stations	13,987	26,021 (deficit)
Overseas artists	2,708	77 (deficit)
	318,569	179,151
Less net cost of National		
Orchestra	97,784	88,166
Surplus before tax	£220,785	£90,985

The net overall surplus for the year after providing for taxation (£154,188) was £66,597 compared with a deficit of £14,812 for the previous year. A major factor in the greatly improved position was the unforeseen increase of £63,262 in the collection of radio licence fees as a result of the special campaign conducted by the Post and Telegraph Department.

The principal items accounting for the overall increase of £193,112 in total Service expenditure were: salaries, £77,000; printing and publishing *New Zealand Listener*, £6,000; licence fee collection charges, £12,000; programmes, £48,000; repairs and maintenance, £8,000.

NORWAY

Scandinavian Television Relay. — The *Nordisk Rad* (Scandinavian Council) session from 9th-15th November in Oslo was the subject of the first television broadcast to be relayed simultaneously in Norway, Sweden and Denmark. The broadcasts were relayed via a provisional link from Oslo to Karlstad-Kinneulle on the Swedish side and thence via the permanent Swedish television link between Stockholm and Göteborg. Two Norwegian and one Danish camera units, operated by Norwegian cameramen, were used during the transmissions; the producer and most of the engineers were Norwegian, supplemented by five technicians from Statsradiofonien, and a supervisor from Sveriges Radio was responsible for the lighting.

The quality of the pictures received in Denmark and Sweden was most satisfactory and the broadcasts aroused great interest throughout Scandinavia.

Building Up the Regular Television Service. — To carry out the decision of the *Storting* and build up a television service to be in regular operation by 1st July 1960, Mr. Odd Granlund, assistant administrative director of Norsk Rikskringkasting, has been appointed managing director of television for a period of two years.

The service will be built up in four stages of three years each, the first stage having been begun in 1957-58 and comprising construction of a studio centre in Oslo annexed to the Broadcasting House, three transmitting stations (Oslo, Rjukan and Bergen) and a network of smaller "satellite" stations. The period 1957-58 has been largely taken up with preliminary plans for these stations and equipment has been bought to the amount of kr. 390,000.

For the sake of staff training, and to assist the radio manufacturers, test transmissions were broadcast during 1957-58 from the Tryvasshögda transmitter and resulted in an expenditure of kr. 275,000. During previous television test operations terminated in 1956-57, plant had already been purchased to the amount of kr. 650,000, and operational expenditure totalled kr. 366,000.

SWEDEN

Annual Report for 1957-58. — During the financial year ended 30th June 1958 the share capital of the Swedish Broadcasting Corporation (Sveriges Radio) was raised by S. cr. 540,000 to 1,080,000, due to the inclusion of television in the activities of the Corporation. Two-fifths of the shares are held by the press, two-fifths by national organisations and one-fifth by the radio industry. The number of the Board of Governors was raised from seven to eleven, the president and five members being appointed by the government and five members being elected by the share holders.

Work was started on a new broadcasting centre in Stockholm and planning began for a television centre on the same site.

Total income from sound radio licence fees amounted to S. cr. 68,135,000, of which 34,000,000 were allocated to the Corporation which maintains the programme services, 25,832,000 to the Telecommunications Board for construction of transmitters and the wired broadcasting service, and 800,000 to the Board of Public Works for the construction of the broadcasting centre. Excess income of S. cr. 7,313,000 was paid into funds.

The gross income of the Corporation in respect of sound radio was S. cr. 34,959,185 (previous year 27,707,507), and total expenditure S. cr. 34,578,185 (27,183,000), leaving a net income of S. cr. 81,000 (21,600). Television, which had its second year of regular service, balanced at S. cr. 10,950,000 (4,557,130) with the aid of a government grant of S. cr. 3,725,000 (3,300,000). Income from licence fees was S. cr. 7,225,000 (1,257,130).

The total number of programme hours during the year was 7,726 for the two home services as compared with 6,594 in the previous year. The Overseas Service broadcast for 6,147 hours in eight languages (6,960 in the year 1956-57). Television broadcasting accounted for 847 hours (487 in the previous year).

The number of sound radio licences rose from 2,582,967 at the end of the previous financial year to 2,625,509 on 30.6.58, a density of 356 licence-holders per 1,000 inhabitants. Television licences rose from 36,574 to 147,924.

The staff of the Corporation averaged 975 during the year, an increase of 205 over the previous year.

SWITZERLAND

Reflections on Twenty-Five Years of School Broadcasting. — It may be the fear of trespassing on the educationists' ground that has always induced school broadcasting [in Switzerland] to maintain a certain reserve, to confine its activities within well-defined limits, and never to indulge in any venture that might be too striking a reminder of its potentialities and its systematic progress over the years. Even now, on the occasion

of its 25th anniversary ¹, it could hardly be said to have deviated much from its normal path.

May those responsible for school broadcasting forgive us if on this occasion we drag it out of the cover under which it has been working for the past quarter of a century. Now is the time, or never, to say something about these broadcasts, which have used the spoken word or music, week after week, on Wednesday mornings, to address thousands of school children in town and country alike, for so many years.

These broadcasts have been directed not only to the children but also to their teachers, for without them school broadcasting would never have progressed as it has done. By itself, it would achieve nothing; with the intelligent and attentive cooperation of the teacher, before, during and after the broadcast, it can do much, if not everything.

It can do much to widen the horizons of the denizens of the school room, for thanks to these broadcasts countries about which little or nothing is known, figures rooted in the realm of the legendary, scientific discoveries, historical events—all are created anew and come to life as if by magic. From abstract notions read about in text books, they suddenly come alive, catch the imagination and imprint themselves on the memory; they speak to the school child in a language he can understand, vivid and human, combining the lively form of the interview, the reportage, the causerie, and the descriptive lecture with a setting in sound illustrating at will a “slice of life” from the past or the present.

The interpretation of a broadcast for schools is just one aspect. Another, equally important, is the planning of the programmes, the choice of subjects, the preparation, the listening in class, and the practical lessons to be derived from the broadcasts. The studios have the delicate and costly task, which they acquit themselves of magnificently, of producing the programmes, arranging for the necessary rehearsals, deciding on the final interpretation, and, in a word, putting the broadcasts on the air. The main function of the regional and local school broadcasting committees is to prepare the programmes, choose the authors, read, approve, modify, or, if necessary, reject, their texts, and finally, make a critical appreciation of the broadcasts and analyse the reports from members of the teaching profession.

The task of the school broadcasting committees is obviously no sinecure, but the teachers' job is not an easy one either. Of course, there are those who are content simply to turn on the set in the class room at the given time on the given day, without bothering to take any active part in the broadcast lesson. Fortunately, they are an exception, for most teachers are aware that if teaching by radio is to be completely successful, it must be preceded and followed by a real personal

effort. There must be a judicious selection of programmes, bearing in mind the age and level of education of the pupils; preparation of these pupils before, and careful attention during, the broadcast lesson under the supervision of the master; use of the blackboard or the projector to emphasise some other important aspect of the broadcast; questioning of the pupils after the lesson, and possibly a written exercise on the information contained in it.

To help with the preparation for the broadcasts, teachers and pupils have a special publication entitled *La Radio à l'Ecole*, or *Feuillets de Documentation*, which fill the gaps inevitably left by any teaching that is purely aural, with pictures and the written word, or the stimulus of reading and the use of sight.

Thus encouraged by the cooperation of the teachers, the sympathetic interest of the pupils, and the material support of the studios, school broadcasting is forging ahead. It flourishes in an atmosphere made more serene by the absence of compulsion with regard to its use in schools, such as is found in the Italian-speaking part of the country. In this respect, it exemplifies conclusively that individual and collective effort, discipline and freedom are factors of progress.

CLAUDE SCHUBIGER,
Editor-in-chief of *Radio Je Vois Tout*

UNITED KINGDOM

New BBC Third Programme Controller. — Mr. Percy Howard Newby, the novelist and critic, has been appointed Controller of the BBC Third Programme in succession to Mr. John Morris who retired at the end of November.

Mr. Newby was for four years lecturer in English Literature at Cairo University. This was followed by a period of free-lance authorship and in 1949 he joined the BBC as a talks producer. For the past two years, Mr. Newby has been chief assistant to the Controller, Talks.

ITA Annual Report for 1957/58. — The annual report of the Independent Television Authority for the year ended 31st March 1958 states that the first national independent television network is now well on the way towards completion. During the year under review, coverage was extended to include Central Scotland and South Wales and the West of England. This development brought the fifth and sixth programme companies, Scottish Television Ltd. and T.W.W. Ltd., into operation and meant that some 75% of the population of the United Kingdom was within the service areas of ITA transmitting stations. Preparations were also well advanced for bringing well populated areas in central southern England and north-east England ² within the

¹ The 25th anniversary of school broadcasting in French-speaking Switzerland was celebrated during the week from 3rd to 8th November with broadcasts of six of the best school programmes in recent years. (Ed.)

² Chillerton Down, in the Isle of Wight, was opened on 30th August 1958, and Burnhope, in north-east England, is scheduled to start on 15th January 1959.

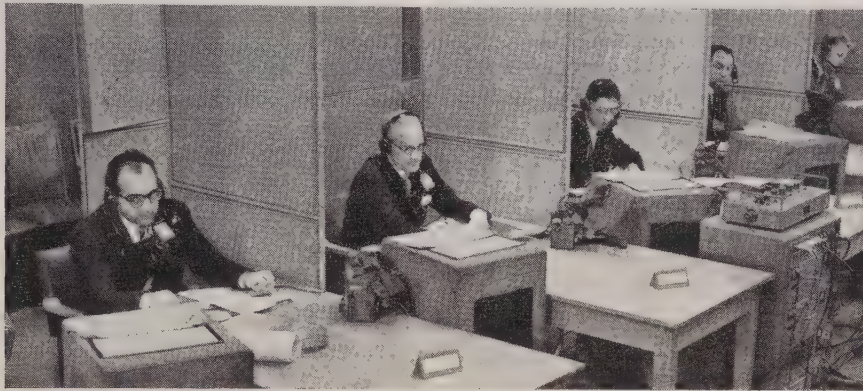
scope of the service and for continuing the expansion into East Anglia, south-east England and Northern Ireland by about the end of 1959. These and other extensions planned would raise the proportion of population brought within the service areas to 95% by the end of 1960, five years after the start of ITA transmissions.

At the end of March there were some 18 million people living in $5\frac{1}{4}$ homes equipped to receive programmes from the ITA as well as the BBC¹.

Programme developments, notably in the field of drama, current affairs and news presentation, were very encouraging. In the second half of the year, the programme companies were increasingly successful in presenting serious programmes which held large audiences

During the year, the report states, it became clear that, out of advertising income, the system was able not only to pay its way but also to make good profits and accumulate substantial reserves for future capital expenditure. In the light of all these favourable developments, "it was not surprising that attention should be increasingly focused on the great and growing resources of independent television and on its capacity to undertake such further expansion in the nation's television services as the Government might decide to allow".

Associated-Rediffusion's First Profit. — Associated-Rediffusion, the second largest commercial television company, which provides programmes for the



THE STATE OPENING OF PARLIAMENT

BBC Photo

On 28th October the State Opening of Parliament by Her Majesty Queen Elizabeth was covered for the first time in television and sound. All production and technical arrangements were in the hands of the BBC which also showed an edited recording the same night.

The television broadcast was taken by nine countries in the Eurovision network, and seven visiting commentators shared the Eurovision commentaries between them. Five of them are seen here during a rehearsal.

and they were, in the Authority's judgment, duly discharging the requirement of the Television Act that there should be a proper balance in subject matter. At the end of the year, there were about 15 hours of serious programmes a week in a total output of about 60 hours, including schools programmes.

During the year, the staff of the Authority increased from 136 to 204, of whom 79 were employed at headquarters and 120 at transmitting stations.

Income from all sources increased by £596,430 to £2,305,894, partly because the stations in Scotland and Wales came into operation during the year, and partly because the Authority increased the programme companies' rentals to reflect the rise in the index of retail prices. After meeting all revenue expenditure and providing for taxation, the surplus for the year amounted to £841,820, compared with £686,837 for the previous year. The unappropriated balance on revenue account to be carried forward stood at £32,429.

¹ Since the report was printed, the potential audience has risen to over 21 million people in $6\frac{1}{4}$ million homes.

London region, has earned trading profits in its third year of operations amounting to £5,108,216, according to its accounts for the year ended 30th April 1958, as reported in *The Times*.

These results surpass even those of Associated Television² by well over £1 million and compare with last year's loss of £626,000.

The company obtained their concession in October 1954, but by August 1956 about half of the £6 m. which had been put into the business by the shareholders had been lost. Losses continued to mount until February 1957, since when profits have been increasing rapidly.

UNITED STATES

U.S. Information Agency: Separate Television Service. — The United States Information Agency has announced that it is establishing a separate television service which will supply over 450 foreign television

² See *EBU Review* No. 50b, page 19.

stations with documentary films, special events coverage and features depicting American life. So far the USIA's television activities have been dealt with by its radio service, the Voice of America.

The director of the new television service is Mr. Romney Wheeler, overseas executive of the National Broadcasting Company. Mr. Wheeler, who joined NBC in 1950, has been the network's director of European Operations, managing director of NBC International, and general European representative.

Mr. Wheeler's successor as director of European Operations of NBC is Mr. Gerald Adler, who has been in London for the last eighteen months with an NBC subsidiary, California National Productions Inc.

"The Call of the Orient." — The Far East Broadcasting Company, Inc., completed ten years' work last June after a preliminary two years of planning and building. Its head office is in Whittier, California, U.S.A., and its stations in the Philippines, Formosa and Okinawa are responsible to that office. Known as *The Call of the Orient*, its aim is "Christianity to the World by Radio"; it is a church-related organisation, set up on a non-profit, non-commercial basis for the propagation of Christianity and for the dissemination of facts that can aid in cultural and civic work.

Programmes are given for 20 hours daily in 36 languages and dialects of the Far East, and range from the strictly religious to those such as the series *Know Your Neighbour* which are designed to help listeners in the different countries of the Far East to understand each other. The Company also runs a station known as "Manila's Fine Music Station" which is very well received throughout the Far East.

At present there are nine stations in service, and in addition a 50 kW band-switching transmitter is now being tested which will be in operation with a full programme schedule by Christmas.

The programmes are obtained through personal contacts in the various areas of the Far East. They are mailed to the Company on tapes that are produced in the national languages and dialects of the different countries, in many instances by national residents rather than by foreigners living in the country. Some 300 persons from many lands are cooperating with the Company for this purpose.

The Company has no underwritten financial support, nor is time sold for profit. The financial resources come entirely from well-wishers throughout the United States and other parts of the world.

An interesting and profitable phase of the Company's work is the maintenance of shops where radio sets are pre-tuned in such a way as to be able to receive only the Company's four stations carrying Philippine coverage. These sets are placed in the hands of responsible individuals in the Philippines with a very small deposit fee, ownership remaining with the Company. These people then send in monthly reports on the quality of reception, the programmes that are best received and how effective they are, and the number of people who listen. This system ensures an audience for the programmes in many areas which would otherwise have no radio reception and in some instances no newspaper coverage at all.

VENEZUELA

Experiment in Educational Television. — Latin America's first educational television experiment was carried out in Venezuela and the results have been so successful that the Ministry of Education has appropriated funds in order to continue the programme during the current school year, according to a Unesco report.

A five-month study of the subject culminated in a fortnight of demonstration broadcasts—a series of one-hour television programmes on biology, chemistry, mathematics, sociology and teacher-training.

The study was undertaken by the Venezuelan National Commission for Educational Television, with the assistance of an expert from the Broadcasting Foundation of America whose mission was financed by a grant of \$30,000 provided by an organisation set up by the Creole Petroleum Corporation of the United States in order to support educational, scientific and cultural activities in Venezuela. United States consultants will work with the Venezuelan educators during the rest of the programme.

* * *

CONGRATULATIONS

We are happy to congratulate Dr. Werner Pleister, television director of the Nord- und Westdeutscher Rundfunkverband, who has been awarded the *Verdienstkreuz* (1st class) of the German Federal Republic for his services in connection with welfare work in Berlin by means of broadcasting.

For the convenience of readers, particularly those who wish to have their copies of the E.B.U. Review bound, the Editor takes this opportunity of announcing that an index to the six numbers of the Review published during 1958 (Nos. 47-52) will be issued with the first number of 1959 (No. 53, February).

BOOK NOTICES

Year One. Published by Granada TV Network Limited, Granada House, Manchester. (117 pages, illustrated.)

This is the story of the first year of operation of Granada TV Network, the independent television company supplying programmes to the North of England, seen through the eyes of a number of contributors. The prefatory note reminds the reader that much of what is recorded is now ancient history as Granada has since celebrated its 2nd birthday, in May of this year, but it was believed on the whole that it might "interest or amuse a sufficient number of people, if only as a museum piece". A modest belief, we feel, for with *Year One* Granada TV Network has provided students of television broadcasting with a most valuable document—the only one of its kind so far in the history of independent television in the United Kingdom. The experience related here and the lessons learned should be interesting not only to those who have passed this way before, but to all who contemplate entering the field at some later date.

A section dealing with the creation of the Network describes building problems, public relations, policy formation and the workings of the various departments, including an account of the course followed by a new programme as it progresses through all the different stages before the actual broadcast. Some outstanding events in the field of outside broadcasts dealt with by the company in its first year are described in detail, as well as the opening night on 3rd May 1956.

Independent contributions include an appreciation by Miss C. A. Lejeune, film critic of *The Observer*, of the Granada Theatres whose selective policy, she believes, has been carried over into the company's television operations. Mr. T. Richardson gives an account of Granada and the Drama in which he singles out the pursuit of controversy which has outlined nearly all the Granada productions, expressing the view that the evidence of policy behind all Granada output is quite revolutionary, none of the other television companies in his opinion being able to present a list of such consistency. Among the plays mentioned which bear out the writer's thesis are John Osborne's *Look Back in Anger*, Ibsen's *An Enemy of the People*, and *Another Part of the Forest* by the American dramatist Lilian Hellman. Randolph Churchill contributes a critique of television and visual journalism in general and Granada programmes in particular. His main criticism of all discussion programmes, and not only those of Granada, is what he terms the exaggerated desire to introduce too many different points of view for fear of being thought one-sided.

A picture section shows different aspects of a day's television, and a very full reference section contains general facts about Granada TV Network, the history

of independent television, the text of the Television Act, 1954, and charts and diagrams showing the size and nature of the television audience.

Annuaire du Spectacle : Théâtre, Cinéma, Musique, Radio-Télévision, 1958. Paris 9^e, Editions Raoult.

As in previous years, the 1958 edition of this important yearbook of the theatre in France, which is the 13th in the series, contains a wide variety of information: a reminder of the main events and outstanding productions in 1957, lists of the official and professional associations of the theatre and cinema; theatres in Paris, the provinces and North Africa; actors and professional bodies, etc. A special section deals with music, another with radio and television, taking in different aspects of the organisation of the RTF, the French Overseas Broadcasting Service, private transmitters, and the radio industry. The list of authors, producers, directors and technicians in the field of radio and television is brought up to date.

The Centre du Spectacle, under whose auspices this yearbook containing more than 1,000 pages is produced, was created in 1954 and groups the main professional bodies concerned.

There is an appendix containing details about theatrical and musical enterprises in Belgium and French-speaking Switzerland. The yearbook is copiously illustrated.

Télévision Scolaire 1958-1959. — An attractive and highly instructive little brochure published by the Institut Pédagogique National, 29, rue d'Ulm, Paris V^e 1.

In addition to the full programme of television broadcasts to schools for the 1958-59 season, with descriptive notes, it contains a great deal of helpful information for those intending to make use of the broadcasts. A detailed section describes the types of receiver available for school use and gives hints on installation and use of the set. Another chapter goes fully into the question of how best to use the broadcast lesson—what to do before, during and after each programme. Great emphasis is placed here on the responsibility of the teacher whose role is considered to be preponderant, television being merely an aid that has been put at his disposal. This conception of the part played by television in the school is also stressed in the introductory chapter, where the reader is told what it is trying to do and what it most certainly cannot do. Sections at the end contain the texts of official communications to schools on the use of television broadcasts, and some useful addresses.

¹ See also item on page 17 of this number.

LEGAL SECTION

TELEVISION AND COMMERCIAL FILMS

by JACQUES GUÉRITAT

General Secretary of the « Société des Auteurs et Compositeurs Dramatiques »

Material things exist only in relation to the purposes they have to achieve and the services they have to render. Thus it is that certain characteristics attach to them, characteristics which not only identify them but above all equip them to answer some specific need, to perform some precise function. Often, however, technological progress goes to show that the uses of things are never fixed for all time, and such and such an object may perchance have some utility tomorrow that may entirely escape us today.

For some fifty years now—fifty years in which industrial technology, the offspring of a laboratory science whose implications are sometimes disquieting, has turned the world upside down and changed men's lives with a rapidity and thoroughness that are as baffling as they are extraordinary—this concept of the “intended purpose of things” has seen many an inroad made upon it, and in the most varied fields at that. An object conceived for a given use and no other may thus subsequently become the essential element in some new use arising out of a series of factors engendered by technology.

Of course, these changes in the original purpose of things may or may not catch on, but in every case they give rise to thorny problems that are solved as often as not in a rough and ready way, at least in the early stages. These problems may be of every kind—economic, political or legal. All the same, one has to admit that in the fulness of time they tend to become clearer, find their true equilibrium and attract solutions conspicuous for well established justifications that are of a piece with the background in which they belong.

It is sometimes said that the law is always a march behind technology, but how could it be otherwise, when the rules of law are born of problems engendered by a technology that has its *raison d'être* in a never-ending process of evolution? Against this it might be argued that in the field of copyright the French decrees of 1791 and 1793 continued in force until the Act of 11th March 1957 came into operation, and that in the eyes of certain theorists those decrees still served their purpose very well. One ought perhaps to concede that this was attributable to the exemplary conciseness of these state-

ments of general principle, buttressed through the years by a wealth of case law and precedent.

It so happens, indeed, that this jurisprudence often grew out of the introduction of new techniques of using works of the mind. We have seen the gramophone record, originally designed and produced for family entertainment, become overnight the mainstay of broadcasting programmes. Had anyone any inkling, half a century ago, of the problems that would ensue from the use by broadcasting stations of records manufactured for sale to private purchasers? Did anyone dream of the legal complications brought about by the transition from the parlour phonograph to the device which from London, Paris, Munich or Rome brings the same record simultaneously to an audience of millions, at home or in public places? Then came the pliable record and the tape recorder. All the progeny of applied technology came into a system of commercial utilisation, and from it there issued problems which were settled at first in a rather makeshift, haphazard way, despite the pains that were taken to reconcile as well as possible the (almost) immutable principles and the novations arising out of new uses of the record that was formerly intended for a very different and clearly defined use.

More recently a like problem came to the fore, that of the use on television of so-called “commercial films”, i.e. films produced for the purposes of public exhibition in cinemas. In law these films conform to a given pattern, while the contractual set-up is framed with an eye to the use for which they are intended and the commercial returns they must bring in; they carry within them their status and their limitations. Copyright in respect of these films keeps to general rules that are admittedly flexible, but it nevertheless does not overstep a framework upon which only special unforeseen contingencies may encroach.

For such films exhibition on television represented a new and ancillary application which had not been contemplated in the relevant contracts, although some members of the industry held that the famous contractual clause “by any process, whether known or unknown at this date” afforded a sure haven of refuge. We must face it

that the broadcasting organisations, the film makers, the authors and the performing rights societies were simply not ready to "cope" and sort out the questions raised by this unexpected new career which suddenly opened up for commercial films. For some years past a few copyright experts had indeed had an inkling of probable difficulties and certain disputes, but nothing positive had taken shape; and then suddenly, overnight, the widespread growth of television made the problem into a major issue. The authors—let's be frank about it—were very reticent at first, and would not believe how vitally necessary it was to "tie up" all the possible eventualities in the contract, not merely in the short run but in order not to mortgage the future with errors which always leave nasty marks when they are put to rights—if they ever are. For their part the film makers were not in any hurry to clear matters up. So it was that we witnessed for years this television exhibition of commercial films adapting itself, not without irregularities and not without hitches and confusion, to arrangements that were traditionally suited to projection in cinemas but totally unsuited to television.

Later on, though the substantive question had not yet been broached, the authors on the advice of their societies "reserved their television rights", meaning by that that while the producer secured the cinema exhibiting rights in return for the lump-sum fee, the author expressly remained the proprietor of the television rights. This clause appears in many contracts in different and often rather obscure wordings. This brought the first difficulties for the television organisations: the film maker was the owner of the *corpus mechanicum*, and the author was the proprietor of the television rights. The first hired out the reel and the second licensed it for exhibition in return for a fee. The first was powerless without the consent of the second, but the consent of the second had no meaning if the first quoted rental terms for the reel that were unacceptable to the television organisation. But in practice it had not been settled through which channel the author was to collect his rightful due—via the film maker, in virtue of contractual stipulations, or through the authors' society to which the author had given authority to collect (without giving it authority to authorise)? Besides this there was the case of films where the rights had reverted to the authors on the lapse of contracts of assignment to the film makers, and the case of films where the makers were the assignees of the entire rights.

All this led to such a widespread muddle that often no one had a clue whom the rights belonged to, whether it was in order to run a film on television, and whether all the necessary licences were in hand. In addition, the ambiguity in the drafting of the contracts, the happy-go-lucky renewals of agreements, the passing of property or exhibiting rights from hand to hand, not to mention the intervention of distributors with prints in stock, busily hiring them out without bothering whether the operation was above board or not, all added to the

confusion, of which it was no exaggeration to say that nobody got anything out of it, either in equity or in logic. Clarification, followed by standardisation, of the dealings between the authors and the television organisations was plainly indispensable. The question was a new one, but by no means simple on that account. And this house-cleaning was bound to come up against settled habits and certain well-rooted interests.

It is to the credit of the European Broadcasting Union (E.B.U.) and the *Société des Auteurs et Compositeurs Dramatiques* (S.A.C.D.) that they ventured into such a novel, complex and shifting field and endeavoured to improvise contractual arrangements capable not of automatically removing all possible disputes, but of reducing at once their number, variety and scope. The E.B.U. and the S.A.C.D. both went into the negotiations motivated by a desire to transact business on a footing of good faith and equality, and in the interests of the smooth operation of the television organisations and the furtherance of the authors' legitimate interests.

When the E.B.U./S.A.C.D. standard contract on television was drawn up this question had already been gone into in some detail. However, in view of the circumstances obtaining at the time, particularly as regards the possible bases of an embryo settlement, this standard contract only included a very vague clause directed to examining and settling the matter from case to case. This was a little meagre, but it was at least a recognition that the problem existed, and that the two parties were agreeable to seek about for a fair solution whenever it seemed necessary so to do. The onus of putting this machinery into operation rested with S.A.C.D. and each television organisation belonging to the E.B.U. and in practice this formula embodying a principle turned out to be all but meaningless.

Spurred by the growth of television in French-speaking countries, some more formal regulations that would operate automatically were felt to be necessary. The purpose in view was recently given concrete expression in a legal document which after lengthy and arduous negotiations has secured the approval of the competent bodies in the E.B.U. and the S.A.C.D. and is due to come into operation immediately. This document, framed as a schedule to the E.B.U./S.A.C.D. standard contract, will become an integral part of the principal contract. In outline the purpose of this schedule was to set up a system where the following two functional considerations, diametrically opposed in their effects but nevertheless proceeding from a like cause, could meet:

- films hired by broadcasting organisations are ordinarily accompanied by a certificate stating that the film-maker (producer) or the distributor holds the rights needed for television purposes, a fact which prevents the good faith of the organisations from being impugned, without thereby absolving them from liability, though it gives them the balm of a possible claim for indemnification.

— the S.A.C.D. declares that it exercises the right to authorise the televising of certain commercial films and to claim remuneration or fees in respect of such televising, the S.A.C.D. considering that it is entitled to assert these rights within the framework and the limits of the authority vested in it by its members who have remained or have again become the proprietors of the said rights, or again by the film maker if he himself is the right-holder and has authorised the Society accordingly.

The foregoing are the operative considerations in the agreement, which goes on to record that it is difficult, if not impossible, to establish the legal position in regard to each film, as this can be done accurately only if one is privy to all the production contracts concluded by S.A.C.D. members. Getting these contracts is very much a matter of luck, especially in the case of old films, and often their clauses are open to conflicting interpretations. Apart from all this, regard must be had to the law of the land which sometimes gives films widely differing national treatment, such as, for example, the statutory vesting of rights in the film maker as sole author or the exclusive holder of the commercial rights.

These points in the preamble to the schedule have their conclusion in the agreement of the parties to forgo making an exact listing of the film repertoire of the S.A.C.D. and an enumeration of the persons who can, according to the circumstances, lay claim to film copyright, the S.A.C.D. being obliged to preserve the greatest possible equity in the business of distributing the proceeds. This determines the general tone of the agreement and the principle of mutual warranty contained therein. The television organisation has a guarantee against risks arising out of the aforementioned uncertainties, while the S.A.C.D. has the assurance that it will be able to fulfil the mandate entrusted to it as effectively as possible, despite the difficulties of identification. This does not “exhaust” the question by any means, but in the present state of this confused situation, where there is room only for approximations and temporary safeguards, this agreement nevertheless affords a security for the legitimate rights of the contracting parties.

Article 1 of the agreement enumerates the types of films that are covered by the schedule, namely films made in the French language and the French dubbing of films made in other languages (or excerpts therefrom), the televising of which is authorised, the S.A.C.D. acting as authorised agent for all those who have transferred their television rights to it for enforcement purposes. The organisation is given the faculty of sub-titling these films or having them sub-titled in the language or languages it uses in its broadcasts, without prejudice of course to the proprietary rights in the film footage. In every case the *droit moral* is reserved.

In order to respect the wishes of the authors who, for aesthetic or other reasons, or because of contractual commitments concerning future remakes, are unwilling

or unable to allow their films to be televised, the S.A.C.D. is given the option of withholding a limited number of films in each contractual year, in so far as the films in question are films in which S.A.C.D. has the right to license television exhibition. In practical terms this restriction can only be a very slight difficulty for the television organisations, as its size is out of all proportion to the number of films produced for the cinema every year.

Article 2 is the outcome of the “tie-in” between the need of the organisations to hedge against all risks and the constitutional obligation of the S.A.C.D. to further the interests of its membership. This is really where the guarantee given to the former by the latter becomes operative, and it amounts to a kind of insurance contract in which S.A.C.D. covers the organisations against the risk of having to pay out in suits brought by persons advancing claims based on copyright arising out of the televising of such films, whether these persons are members of S.A.C.D. or not and whether they are individuals, author's societies or other corporate bodies. Of course, the organisations may consider this guarantee to be superfluous because in almost every case the distributor or the maker certifies by contract that he is the owner of the rights, but while such a certificate is proof of the *bona fides* of the organisation and absolves it from guilt in criminal proceedings, it is by no means sure that the same applies in civil matters. If the case comes to court the television organisation can sue the film maker or distributor for indemnification, but the other party is not always particularly solvent and there can be no doubt that if such actions were to become commonplace—and the authors would have to bring them sooner or later—it would inevitably create very great insecurity and would be harmful to the business interests.

The guarantee in question may not exceed in any one calendar year in which the schedule is in force the amount paid to the S.A.C.D. for that year, and similarly if the schedule is valid only for part of a year, the guarantee may not exceed the amount paid in respect of that period. It is, after all, only normal to make the upper limit on the guarantee the amount of the fee which brings it into existence. To this are added administrative provisions governing the way the guarantee is to be claimed, the point being that it is important, if the guarantee is to have its full meaning, that it should be exercised within a certain time limit, long enough to cover the chances of claims being brought, but short enough to enable the distribution of the proceeds to take place with the minimum of delay.

As to the ways in which this lump sum is calculated, these depend on two factors, one fixed and the other determined by various elements. The fixed factor is the amount paid annually by the organisation to televise the S.A.C.D. theatre repertoire; the other factor, a percentage to be applied to this sum, is found from a comparison of the “film” budget and the “theatre” budget, from the organisation's audience, the relative

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PERFORMERS' RIGHTS UNDER UNITED STATES LAW (*)

by HERBERT T. SILVERBERG

A. Contractual Rights

Just as the international organization of European film producers maintains that a producer is an author because he "creates" a film, it is possible to argue that a performer is the sole "author" of his own performance. It has been held, however, in *Capitol Records v. Mercury Records Corp.* (1955) that a performance cannot be copyrighted under the American statutory scheme, even though in that case the Second Circuit Court seemed to acknowledge the right of Congress to amend the Copyright Act to encompass performances within its protection. Since no legislative change of this sort appears to be in sight, performers presumably will seek to approximate copyright protection by means of collective bargaining agreements and by court tests of their common-law rights under the laws of the various states.

The success of performers in obtaining payments for residual rights in the telecasting of old films shows the effectiveness of the collective-bargaining tool. Also, several recent decisions attest the judicial ferment in this area of the common law.

A federal court of appeals recently commented that today it is usual to provide specifically by contract between performer and entrepreneur as to what uses the product—such as a motion picture—may be put and that, therefore, as to performances of films created in the future, the question of a performer's rights in his performance would become largely academic.¹ Even

(*) This article, which we are reprinting because of its present interest in the light of the preparations for a universal Convention on ancillary rights, is an extract from the article published for the author by the Duke University School of Law, Durham, N.C., U.S.A. The original text has been scrupulously respected, with the exception of the footnotes which have been omitted in part or abridged. We are grateful to the author and to the Duke University School of Law for permission to reprint this significant article in our review.

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¹ *Ettore v. Philco Television Broadcasting Corp.* The case is discussed by Nimmer, *Recent Trends in the Law of Artistic Property*. In connection with the *Ettore* case, it should be noted that if a boxer is a performer, so are most of the persons who "participate" in television shows. The popular TV quiz shows and the many audience participation shows actually employ thousands of persons who may never think of themselves as performers with performers' rights until they see or hear of some other unrelated use being made of their performances. In addition, there are the same shows in which professional actors play TV games which could easily be put to other uses. Notwithstanding the court's

if this prognosis is correct, the issue remains very much alive with respect to performer-producer film contracts entered into before motion pictures became an important staple of television fare and which do not reflect such use.

Cases involving two celluloid cowboys, Roy Rogers and Gene Autry, led to an analysis by the courts of performers' rights in light of actor-producer contractual provisions.² In the *Rogers* case, the pertinent facts were briefly as follows: Under the contracts of 1937 and 1948 between Rogers and Republic, Rogers had granted to the producer the exclusive right "to photograph and/or otherwise reproduce any and all of his acts, poses, plays and appearances." The performer also granted to the producer "all rights of every kind and character whatsoever in and to all such photographs, reproductions and recordings and all other results and proceeds of his services hereunder, perpetually...", and further, the use of his name, likeness, and voice for advertising, commercial, and publicity purposes. However, the artist reserved to himself the right to "commercial tie-ups."

The Ninth Circuit Court held that under the contracts, the terms "acts, poses, plays and appearances" did not mean the same thing as "name, voice and likeness," and that, therefore, "acts, poses, plays and appearances" referred to the activities of the artist in connection with the motion picture, whereas "name, voice and likeness" had reference to non-motion picture reproductions of characteristics of the performer. The court held that restrictions upon the use of the actor's name, voice, and likeness did not preclude the use of his acts, poses, plays, and appearances and that, therefore, the producer could license the use on television of the motion picture in which the performer appeared. The court further held that, in view of the express contractual consent by the performer to the proposed use by the producer, the licensing of television rights was not unfair competition.

In the *Autry* case, also, the contract was interpreted as distinguishing between use of the performer's voice,

prediction, it is not improbable that, quite aside from the problems of the diminishing number of old films like the *Ettore-Louis* fight pictures, the contracts for which contained no reference to TV, there may still be many problems with other uses of television films.

² See Silverberg, *Televising Old Films—Some New Questions About Performers and Proprietors' Rights*, in *EBU Bulletin*, No. 16, p. 579. At that time, in evaluating the case, I concluded: "Further judicial thought may create a new juristic concept, to wit, that the product of an artist's labor is a thing of economic value, and that its use in a new and additional medium warrants additional compensation. However, in the present state of the law the actor must look for his protection to his contract, legislation, or collective bargaining."

name, and likeness and his activities in the motion picture as such. The court concluded that the performer had granted all rights in his motion picture activities to the producer. In this case, the question was broader than in the *Rogers* case because the use of the motion picture on television in the *Autry* case involved cutting the films in order to accommodate commercials, and it was contended that in so doing, the producer might so alter or emasculate the motion pictures as to render them substantially different from the work which the artist had originally produced. Further, Autry also contended that the exhibition of an old picture showing the performer in outmoded clothes and automobiles could be quite harmful to his reputation. As to the performer's right to guard his reputation in this manner, the court tersely stated that the contractual consent extended to the risk of having the motion pictures exhibited when the fashions and cars shown therein were no longer in fashion. As to the question of "emasculating" the films the court found that the actual cutting to 53 minutes was within the contractual agreement and that complaints about any abuse in this respect should be presented if and when the occasion arose. Here also, the court precluded recovery upon the ground of consent, although the possibility that, under different circumstances, there might be an invasion of the performers' personality was not ruled out.

The decisions of the Ninth Circuit Court in the *Rogers* and *Autry* cases did not deny or affirm the performers' property rights in their performances; but by interpreting a general clause in the respective contracts as assignments of television rights, they effectively excluded the performers from participation in the profitable televising of old motion pictures.

Both Autry and Rogers argued that licensing the motion pictures for television without their consent constituted unfair competition, and in both cases, the court held that the contractual consent to any use of the film included such exhibition and precluded a claim of unfair competition.

*Ettore v. Philco Television Broadcasting Corp.*¹ concerned the effort of an ex-pugilist to recover damages from a broadcaster for unauthorized telecasting of a film depicting his boxing bout with Joe Louis. The plaintiff's contention was that he had not sold his television rights in motion picture of the fight and that, therefore, unauthorized televising of his performance was unfair competition. Although this bout took place and the contract had been made before the advent of commercial television, the Third Circuit Court held that Ettore could recover damages on the theory of unfair competition because the unauthorized telecast constituted injury to a property right. In its treatment of the effect of the sale of movie rights, the *Ettore* holding is diametrically opposed to the *Autry* and *Rogers* cases.

¹ In *Granz v. Harris*, a presentation of abbreviated versions of a performer's work was held to be unfair competition and an invasion of his personal rights.

Because so many movie producers are releasing their old films in ever greater numbers for showing on television, this issue is of vital importance to the older generation of cinema actors who are receiving no portion of the television revenues for their old movies.

As an interesting sidelight, under a contract concluded in 1948 between the American Federation of Musicians and the major Hollywood studios, old film cannot be sold to outlets other than theaters without recourse to the AFM. Under this contract, the AFM is apparently entitled to a rerecording fee of \$25.00 per musician employed in scoring the film, plus five per cent of the gross from television sales. However, to escape the financial burden of the payments required under this agreement, Republic Productions has commenced an antitrust suit against the AFM.² This suit may ultimately determine the extent to which a union can control the television use of theatrical films by means of collective bargaining agreements entered into subsequent to the completion of the films and independent of the contracts in force when the film was made.

B. Property Rights

Apart from contractual rights, the protection of a performer against unauthorized use of his performance is usually based on one or more of three common-law doctrines: literary property rights, unfair competition, and, less frequently, the right of privacy (now being supplemented by the right of publicity). A leading case in the field until recently was *RCA Manufacturing Co. v. Whiteman*, where the Second Circuit Court stated that common-law rights, if any existed in the recorded performance of a musical artist, ended with the sale of the records. However, this holding, on which numerous other decisions have been based, was expressly overruled in *Capitol Records v. Mercury Records Corp.*, with the effect that—at least in New York—musical artists, or other originators of a recorded performance or their assignees, do have a common-law property right in their records even after the sale thereof.

Admittedly, the *Capitol Records* case turned largely on the question whether the plaintiff had lost its exclusive right to reproduce and sell its records by putting them on public sale—i.e., whether public sale of records amounted to "common-law publication" and thereby caused a forfeiture of the common-law property right. Nonetheless, the Third Circuit Court in the *Ettore* case used *Capitol Records* for the proposition that

² It is reported in *Billboard*, March 30, 1957, that the Superior Court in Los Angeles held in a suit by Telemount Pictures against Screen Actors Guild that residual payments for a television series did not violate the antitrust laws. Also, members of the Hollywood AFM local have brought an action seeking damages of \$2,100,000 from the AFM, trustees of the residual payments trust fund, and the television film producers, and asking also that television film producers, networks, and distributors be enjoined from making further payments to the trust fund. See *EBU Bulletin*, No. 42, p. 174.

if the performers' rights had not been totally yielded by them, the exploitation of their performances by reproductions without further compensation would have been enjoined or prohibited under the guise of protection from unfair competition.

Thus, even though the performance of a pugilist may not be an intellectual creation and so not entitled to protection by common-law literary property rights, *Ettore*, on the basis of an analogy, had a cause of action in unfair competition.

A fact situation, identical to *Ettore*, was presented in *Sharkey v. NBC*, where sections 50 and 51 of the New York Civil Rights Law were the sole basis for the court's granting relief to the plaintiff. There the court held that

use of plaintiff's name and the moving picture made them less valuable to plaintiff... stated a cause of action and that defendant did not show that plaintiff had lost or so far restricted his right of privacy as to be without standing to challenge the unauthorized use.

In *Giesecking v. Urania Records, Inc.*, another recent New York case, the Civil Rights Law was also successfully invoked to protect a performer's rights in his performance. The late pianist Walter Giesecking had brought an action against the Urania Record Company for making unauthorized reproductions of his recorded performances and for using his name in connection with the sale of these records. The court denied defendant's motion to dismiss the complaint. The reasons were that even a performer in the public eye has a right of privacy under sections 50 and 51 of the New York Civil Rights Law and has a property right in his performance that it shall not be used for a purpose not intended, and particularly in a manner which does not fairly represent his service. The court did not rely on the *Sharkey* decision, but the rationale is much the same. The court further held that putting records on public sale did not amount to a forfeiture of the common-law rights in the records or, as the court put it, did not "dedicate the right to copy or sell the record." As to this last point, the court cited the *Capitol Records* case as authority.

As to the second cause of action, namely unfair competition, the court in the *Giesecking* case merely stated that it came clearly within *Metropolitan Opera Association v. Wagner-Nichols Recorder Corp.*

Thus, the right of privacy was protected and the performer's property right vindicated in the *Giesecking* and the *Sharkey* cases, although both performers were public figures.

In contrast to *Sharkey* and *Giesecking*, the *Ettore* case held that the New York Civil Rights Law "was intended to protect a personal as distinguished from a property right" and presumably was inapplicable to commercial televising of the filmed prizefight. Instead, "unfair competition" was relied on by the court, even though usually a cause of action in unfair competition requires "palming off" or at least some competition between plaintiff and defendant—neither of which was present

here.¹ Apparently, it was considered that, even if *Ettore* had no right to privacy, his "right to publicity" was deserving of protection.

The previously mentioned use in *Ettore* of the *Capitol Records* decision as establishing that the plaintiff's common-law rights in his performance continued long after the match itself and its exhibition in movie theaters raises a question in another respect. Even if the majority in *Capitol Records* was correct in holding that sale of a record is not a publication, this does not mean that common-law rights in a motion picture continue past its time of publication, since the question of "publication" does not arise in regard to motion pictures in the same manner as for records. Judge Hastie's dissent considered this point and concluded that *Ettore* "published and dedicated the spectacle as completely as he knew how"; and, moreover, he emphasized that *Ettore* had made no effort to impose any restriction upon the use of the film similar to the equitable servitude recognized in the *Waring* case.²

Thus, while the result in *Ettore* is clear enough, the ground on which it protected performers' rights is not. Despite the expressed intent to rely on *Capitol Records*, the court did not discuss whether the film showing *Ettore's* fight was published or unpublished; yet, in *Capitol Records*, the holding that sale of records was not publication constituted the predicate for the decision.

While to some *Ettore* marks a further step toward recognition of a performer's property right in his performance, the opinion there leaves much room for further clarification of the theory underlying protection of that right.

A distinct step toward crystallizing a property right theory under which performers' rights may be advocated has recently been taken in *Hogan v. A. S. Barnes & Co., Inc.*, a trial court opinion which does not appear to have been appealed. Although this case did not concern the rights of a motion picture performer, the rationale of the decision appears to be applicable to such cases, since reliance seems largely to have been placed on cases dealing with performers' rights. The facts briefly were as follows:

The defendant, a publisher of books on sports, displayed in a book the name and photograph of Ben Hogan, the well-known golfer, without his permission. The defendant had sought a release from the plaintiff for the use of his photographs in return for payment of \$100 and two copies of the book. The plaintiff's letter in

¹ Cited by the court was *Metropolitan Opera Association v. Wagner-Nichols Recorder Corporation*. There it was held that misappropriation of another's efforts was sufficient to give a cause of action and that direct competition and "palming off" were not required elements of unfair competition.

² *Waring v. WDAS Broadcasting Station, Inc.* (1937), where the orchestra leader was held entitled to the benefit of an equitable servitude when it was shown that a restrictive notice had been placed on each record released. Unlimited sale or lease for exhibition is generally considered to be publication.

reply to this request consisted of three words: "Are you kidding?" The plaintiff informed the defendant, by a subsequent letter, that he refused to permit the use of his photograph and name in the proposed book, but defendant, nevertheless, used them, whereupon plaintiff brought action to recover damages on the following grounds:

- (1) invasion of plaintiff's right of privacy;
- (2) unfair competition;
- (3) unauthorized and uncompensated appropriation for commercial purposes of plaintiff's right of publicity;
- (4) libel; and
- (5) breach of a contract of quasi partnership in a joint adventure.

As to the invasion of the plaintiff's privacy, the court first stated that Hogan was a public figure who could not, and did not, complain that he had been unwillingly exposed to the glare of public scrutiny. Instead, the court said, the complaint was that the commercial value which attached to his name because he was a public figure had been exploited without his having shared the profits therefrom. Following the decision in *Haelan Laboratories v. Topps Chewing Gum*, the court concluded that the plaintiff sought to vindicate, in the first count, not his right of privacy, but a right which was the very antithesis of the right of privacy—namely, the right to share in the income derived from the public exposure of his likeness and name. Therefore, there was no invasion of the plaintiff's right of privacy.

On the count of unfair competition, the court held that the plaintiff had an enforceable property right in the good will and commercial value of his name and photograph in connection with the game of golf. Therefore, the defendant's act of publishing and advertising the book

constituted unfair competition as to the plaintiff in as much as by such act, the defendant misappropriated a property right of the plaintiff.

Thus far, the court followed precedent, and while the decision strengthens the line of cases protecting a vague property right of a performer in his performance and the publicity value derived therefrom, it adds nothing to the theory. The significance of the decision lies rather in the fact that the plaintiff was successful on his claim under the third count—i.e., a violation of his "right of publicity."

The court, in discussing the third count of the complaint, once more referred to the *Haelan Laboratories* case and analyzed the term "right of publicity" used in that case by the Second Circuit Court, saying:

As we view the "right of publicity"... it is but another way of applying the doctrine of unfair competition. In essence, it is calling the property right, which must be found to exist in an unfair competition case, a "right of publicity"...

The court expressed the view—rightly it is submitted—that a number of cases concerning complaints by public figures for invasion of their right of privacy should have been decided by applying the doctrine of unfair competition to a property right newly labelled the "right of publicity", instead of by granting relief under a privacy statute in situations not properly within its scope.

Thus, the "right of publicity" as an aspect of the doctrine of unfair competition has been further developed by the *Hogan* decision. Once this right is generally admitted as a property right, the question, as pointed out by *Hogan*, is simply whether or not the plaintiff is justified in claiming a misappropriation of his right of publicity. If there is misappropriation, relief is available under the doctrine of unfair competition.

TELEVISION AND COMMERCIAL FILMS

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importance of commercial films in the programmes as a whole and any other considerations that may be relevant in determining a sum that represents a fair balance between a valid guarantee and a reasonable remuneration for the right-holders.

We are by no means sure that this system is perfect, and it is not claimed to be. But it not only has the merit of existing, but also that of reducing the muddle in this

aspect of the television use of commercial films and of substituting for it a framework within which each party stands to gain. The E.B.U. and the S.A.C.D. have here embarked on an experiment, and they have agreed that it must be improved in the light of experience; to this end, they have undertaken to revise the standard contract and the schedule every two years, and thus to keep them abreast of technical developments and to incorporate the lessons learned in everyday application of the agreements.

NEWS AND INFORMATION

INTERNATIONAL FEDERATION OF ACTORS

Resolution on Ancillary Rights. — A report appeared in the *EBU Review*, No. 51b, p. 27, on the decision of the ILO, Unesco and the Berne Union to proceed with the preparation of two international instruments for the protection of ancillary rights, and a brief description was given of the tentative "delimitation plan" drawn up jointly by the Secretariats of the three organisations to co-ordinate the subject-matter of the two Conventions. It will be recalled that the Permanent Committee of the Berne Union and the Unesco Intergovernmental Copyright Committee subsequently endorsed the decision arrived at by the Executive Heads of the intergovernmental organisations in question and considered that the delimitation plan afforded a reasonable basis for further work.

It was in these circumstances that the International Federation of Actors held its Fourth Congress in Geneva from 8th to 11th October 1958, during which the problem of ancillary rights was discussed at length. The resolution adopted at the close of this debate, after recording the Federation's surprise at the agreement reached by the directors of the three intergovernmental organisations, rejects the tentative delimitation which, it considers, would delay the achievement of the international protection which is being sought and would result in a confused situation which would not take account of the real nature of the problems which arise out of the relations between the performers and those who use their recorded or broadcast performances. The resolution consequently declares that a new joint effort should be made by the three intergovernmental organisations with a view to the conclusion of a single draft Convention.

"If, however," (we cite the chief passage in the resolution) "because of the different nature of the rights which are being sought, the preparation of two international instruments should prove to be unavoidable, the delimitation of the fields to be covered by each of the two instruments should, in order to take account of reality, be based on the differences in question:

The protection of performers should be assured by means of an international Convention drawn up by the ILO within the framework of labour law;

The protection of the legitimate rights of record manufacturers and broadcasting organisations—the nature and basis of which rights are peculiar to themselves—could be ensured by the Berne Union, if necessary jointly with Unesco."

This resolution, which has been brought to the attention of the appropriate organs of the ILO, Unesco and

the Berne Union, has also been endorsed by the International Federation of Musicians which in turn is making appropriate representations to the three intergovernmental organisations.

FRANCE

Copyright in Ballet. — The action reported below, which was heard by the Civil Tribunal of the Seine on 2nd July 1958, led the Court to make an enlightening analysis of the position of ballet in law which, on account of the special nature of that art form, is of primary interest to television.

The plaintiff, a theatrical impresario, moved the Court with a request to be recognised as the exclusive proprietor of copyright in the ballet entitled *Le jeune homme et la Mort* based on the poetic theme by Jean Cocteau, for which he (the plaintiff) had ordered and commissioned the choreography, scenery and costumes.

The Court was required to investigate the circumstances in which the ballet had been created and to assess the cogency of the grounds adduced by the plaintiff to establish his copyright. In the course of this analysis the Court noted first of all that the plaintiff had produced no exhibits or documents likely to prove that he took part in the creation and production of the ballet in question, with the result that he could not claim copyright on the grounds of original authorship or co-authorship. On the other hand, in view of the somewhat special nature of the subject ballet, in which choreography was no longer the essential feature in the work as it is in classical ballet, the Court found, to quote the description of the work given by Jean Cocteau himself, that the ballet *Le jeune homme et la Mort* was less a ballet in the true sense than "a silent play in which the director endeavours to impart to gesture the pattern of words and cries". The Court further noted that the choreography which had been composed to a music not designed for such a purpose (by Johann Sebastian Bach) had not been reduced to writing in any libretto, a rule which in the Court's opinion justifies the SACD rule whereby choreographers are not acknowledged as joint authors of a ballet. Thus, given that the ballet in question was composed in essence of the totality of the gestures, movements and poses of the performers tending to represent and interpret the basic theme of the work, and that the play so composed formed a whole which had a value of its own independently of the scenery and the costumes, the Court ruled that the latter elements amounted only to "properties" which could be separated from the work and which were in fact so separated when

the play was performed in different scenery and acted in other costumes. It followed for the Court that even if the plaintiff had acquired the property rights in the scenery and costumes, he could not lay claim to a derived right of co-authorship in the whole of the work at issue.

As to the identity of the real author of the work, the Court (having thus eliminated the choreographer and the designer of the scenery and costumes) concluded that the sole author of the ballet was Jean Cocteau, by reason of the fact that it had been composed in accordance with his explanations of the way to transpose his poetic theme into gesture and stage business. The Court found substantiation for this contention in the fact that the work had been billed as being by Jean Cocteau and Johann Sebastian Bach, as author and composer respectively, and had been so entered in the books of the SACD.

The plaintiff is thus seen in the last analysis as a mere show producer who had acquired the ownership only of the material properties created for the purpose of staging the work, and it follows that he has no title to a right of authorship or co-authorship in the work, either at first- or at second-hand.

(The case invites comparison with the judgment of the Paris Court of Appeal on 5th February 1958, reported in *EBU Review*, No. 49b, p. 22, which suggests that the Court of Appeal, apparently more severe than the Tribunal of the Seine, subordinates copyright protection for a choreographic work to the condition set out in the French Copyright Act and the Berne Convention, namely that the work must be fixed in writing or otherwise if copyright is to subsist therein. It will be noticed that there had been no such fixation in the case tried by the Civil Tribunal of the Seine, and that the Court was satisfied with a set of presumptions in declaring Jean Cocteau to possess copyright. The same remark is made by the *Gazette du Palais* for 4th October 1958, from which the above case is taken.)

GERMANY (Federal Republic)

Judgment concerning Public Uses of Television Broadcasts. — GEMA had instituted proceedings against a café proprietor on the grounds that he had used a television receiver in his place of business and had thus, in the capacity of the organiser of an entertainment, made calls upon the musical repertoire of the plaintiffs without their permission. In a hitherto unpublished judgment of 14th May 1958 from which an appeal may lie, GEMA's claim was dismissed and they were ordered to pay costs.

The Court—the Berlin-Charlottenburg *Amtsgericht*—held that the defendant would have required prior authorisation from the plaintiffs only in the event that he could have been taken to be the organiser of the dramatic and musical performances seen and heard on

his television set. Now, the Court ruled, the defendant cannot be regarded as either the sole or the joint organiser of the said dramatic and musical performances since the latter all took place with the plaintiff's knowledge and consent in the studios of the broadcasting station and the defendant café proprietor had had no share in organising, financing or otherwise producing the programmes he had caused to be seen and heard. The fact of turning a set on to a given programme does not make the operator the organiser of an entertainment within the meaning of the law, even if he derives a profit from so doing, as this profit is not enough to make someone the organiser or joint organiser of a dramatic or musical performance. The Court adds that otherwise one would have to regard as an organiser the innkeeper who opened the windows of his inn to let his guests hear the band playing in the square outside.

Action of GEMA versus the AFN. — The dispute between GEMA, the performing right and mechanical right society in the Federal Republic of Germany, and Radio Free Europe regarding the payment of fees in respect of public performance, which was settled by arbitration¹, was the prelude, as the *E.B.U. Review* had foreseen, to other actions against foreign stations broadcasting in Germany. The GEMA journal announces that this society has recently issued a writ against the persons responsible for the American transmitters operated in Germany under the collective name of the American Forces Network (AFN), after all the representations made by GEMA to the network and the diplomatic authorities proved to be of no avail. The headquarters of the United States Army on 20th August 1958, i.e. after the arbitration award in the Radio Free Europe case, again rejected the GEMA claims, contending that, as distinct from Radio Free Europe, the AFN was an offshoot of the American armed forces and was on that account not subject to obligations deriving from German law.

GEMA bases its action on a clause of the Treaty concerning the stationing of foreign troops in Germany, under which in the absence of any express regulations to the contrary members of foreign armed forces must abide by German law, the authorities of the said forces undertaking and guaranteeing to enforce compliance with that law. The GEMA further cites the precedent of the RIAS Berlin station which, although operated by the State Department in Washington, pays GEMA its royalties. It adds finally that the American forces stationed in France have agreed to make payments to SACEM in respect of the broadcasts from their stations, SACEM being of course the French performing right society.

(The reader may wish to compare the above case with that recently tried in Iceland and reported in *EBU Bulletin* No. 42, p. 171.)

¹ *EBU Review*, No. 51b, p. 29.

IRELAND

New Revision of the Copyright Act. — When the *EBU Bulletin* reported (No. 45, p. 590) the passing of legislation to amend the Industrial and Commercial Property (Protection) Act, 1927 and 1929, it pointed out that the amending enactment appeared to contain provisions governing the right of translation which were at variance with the Berne Convention, which had been ratified by Ireland subject to the reservation provided for in Article 25 of that instrument. The effect of the amendment was to reduce the term of the exclusive right of translation into Erse from ten years to seven, although the Berne Convention only gives countries availing themselves of the reservation the option of limiting to ten years the duration of the exclusive right of translation into one of the languages of the country.

The Irish legislature has now put this obvious oversight to rights, and at the same time has created circumstances which will enable Ireland to ratify the Brussels version of the Berne Convention without maintaining its reservation. Section 154 of the principal Act is so amended that the translation rights, even into Erse, will subsist without restriction until the expiration of the general term of copyright; moreover, if this right has ceased to exist before the commencement of the new Act it will be revived as an integral part of copyright until the latter expires. Notwithstanding this general rule, translations into Erse made pursuant to the previous law will continue to be lawful whether or not they have been published before the coming into force of the new enactment, provided however that first publication of the translation takes place within three years from the commencement of the new Act.

ITALY

RAI Monopoly Tested in Supreme Court. — The Supreme Court sitting *in corpore* recently had to adjudicate a dispute in which what was ultimately at issue was the television monopoly granted by the Italian Government to the RAI. The facts of the case were as follows :

A company going by the name of *Il Tempo T.V.* applied to the Ministry of Posts and Telecommunications for a concession to use some television channels in the band above 470 Mc/s allotted to broadcasting under the Atlantic City Convention, made operative in Italy in 1948, with a view to giving television broadcasts in certain areas of Italy.

In March 1957 the Ministry replied that it could not entertain this application, owing to the fact that it had granted the RAI exclusive rights to operate a television service within the meaning of Section 168 (5) of the Postal and Telecommunications Code. The *Il Tempo T.V.* company thereupon brought a suit against the Ministry of Posts and Telecommunications, arguing that

the Ministry's refusal, as the denial of a subjective right, was against the law. In the plaintiff's opinion the State in so doing arrogated to itself in the broadcasting service a monopoly which it did not possess, firstly because in the very words of the Postal Code the broadcasting and television service was not among the communications services proper which alone are exclusively reserved to the State, and secondly because a monopoly of broadcasting, even if it existed, would be unconstitutional on several grounds : it would be out of all keeping with the enactments before the coming of television in Italy, and it would infringe several Articles of the Constitution, one of which guarantees freedom of artistic expression, another proclaims freedom of private business initiative, and a third, Article 21, gives everyone the right freely to convey his or her thoughts in speech, writing or any other medium of communication. Lastly, the plaintiff's case is that even if the State monopoly itself is not contrary to the Constitution, this at least holds good for the deed investing RAI with the exclusive rights to the broadcasting service.

On the basis of these allegations, *Il Tempo T.V.* cited the Ministry of Posts and Telecommunications and the RAI in the Rome High Court of Justice, seeking a ruling that certain provisions of the Postal and Telecommunications Code were against the law, that the same applied to the Ministry's refusal of the plaintiff company's application for an allocation of channels, and claiming an award of damages against the defendants.

In their answer the State and the RAI maintained that as the administrative powers of the State were involved the matter lay outside the jurisdiction of the Court in question, and challenged the claim on its merits.

Delivering judgment on 17th May 1958 the Supreme Court *in corpore* declared that the case was not within its competence for the following reasons :

The issue in the case is an act of the Postal Administration refusing to entertain a request for the allotment of the necessary frequencies to operate a television service. The plaintiff had claimed that this act was illegal in the absence of a State monopoly of broadcasting and television. The Court noted, however, that the plaintiff had itself recognised that the State had the power to allot television frequencies because it had itself requested that a frequency should be assigned to it. In this connection reference should be made to the Act of 27th December 1948 giving the force of national law to the Atlantic City Convention, under which the States undertook to make the establishment of any transmitting station conditional upon a prior frequency allocation within the stated limits and in such a way as to avoid interference. It would therefore seem incontrovertible that as regards frequency allocations the State exercises in virtue of intergovernmental Conventions the power to allot frequencies to those desirous of installing transmitting stations. In consequence, whatever may be the relationship between television and the constitutional guarantee of freedom of expression for

all, no broadcasts can be given without the assignment of a frequency which only the State in the exercise of a discretionary power can grant. It follows that this power remains intact and unimpaired, even if it should be held that the monopoly system for the broadcasting service and the concession granted to the RAI were contrary to the law.

This being the case, the competent judicature to try the claim of *Il Tempo T.V.* is the Council of State, which will also have to decide the questions of constitutional irregularity raised by the plaintiff. The latter had, it is true, justified its choice of the civil courts by asserting that if the administrative courts recognised the unconstitutionality of the enactments in question, the action would again have to be referred to the ordinary courts. Not so, says the Supreme Court; if the Administration refusal was found illegal on account of the unconstitutionality of the laws on which it is based, the fact remains that the Administration would retain the power to assign frequencies as it thinks fit and to issue operating licences, and that any decisions taken by it in this matter would remain within the purview of the administrative tribunals.

NETHERLANDS

Ruling of the Supreme Court in BUMA v. The Netherlands. — On two occasions BUMA, the Netherlands performing right society, has had judgment given in its favour in its proceedings against the Netherlands State, as the responsible authority for the Postal, Telegraph and Telephone Administration, which it had sued for having carried out wire broadcasting operations without the permission of the authors' society. The judgment of the District Court of The Hague and the later ruling of the Court of Appeal were reported successively in the *EBU Bulletin*, No. 27, p. 396, and the *EBU Review*, No. 49b, p. 26.

Giving judgment on 27th June 1958 the Supreme Court has now rejected the appeal of the State and upheld the decision of the Court of Appeal. The Supreme Court, like the courts below, considers that wire broadcasting constitutes a method of publication *sui generis* which according to the letter and the spirit of the 1912 Copyright Act falls within the definition of publication (communication to the public), which is reserved to the holder of the copyright in the work thus communicated. The Court rejects as of no substance the contention that the Postal Administration has no influence over the composition of programmes broadcast over the rediffusion system, that these programmes must compulsorily include the programmes of Hilversum I and II in respect of which copyright fees had already been paid to the plaintiffs, that the rediffusion operations are carried on with the agreement of the Netherlands broadcasting organisation, and lastly that the fees paid by the latter to BUMA are calculated on the basis of

the total number of listeners in the Netherlands, including the subscribers to the wire broadcasting service.

The *EBU Review* hopes to publish in the near future a more detailed article on this judgment by an expert in Netherlands copyright law.

UNITED STATES

Lawsuit concerning Protection of Television Broadcasts. — According to the 8th September 1958 issue of *Broadcasting*, the U.S. District Court at Helena, Montana, has on its docket a case centring around the wired retransmission of television programmes without the permission of the originating station to some 1,800 subscribers, and the Court is asked to give a temporary injunction to restrain such retransmission by the defendants pending legal consideration of the petition on the merits.

The programmes put out by the KXLF-TV station are picked up by means of a mountain-top antenna and are then re-routed to subscribers hooked into the Helena Television Inc. cable system, although they can be received off the air from the local KXLJ-TV station which rebroadcasts them with the permission of the originating station and uses them to attract publicity from local advertisers. The defendants convert the channel 4 signal from KXLF-TV to a channel 2 signal and charge subscribers \$3.94 per month in addition to a cable connection charge. It is contended by the plaintiff, one of the owners of KXLF-TV, that the defendants' conduct amounts to "piracy" since the rebroadcasting of the originating station's programmes over a cable system has never been authorized by that station, and causes serious damage to the KXLJ-TV relay station, which has difficulty in selling its time to advertisers when the same broadcasts minus the commercials can be received in the same area by wire.

The petition, which asks for an injunction to prevent the defendants from continuing the unauthorised pick-ups of KXLF-TV broadcasts, is brought under Section 325 (*inter alia*) of the Federal Communications Act, which forbids any broadcasting station to rebroadcast the programme or any part thereof of another broadcasting station without the express authority of the originating station. The plaintiff maintains that the conversion of signals from channel 4 to channel 2 and their delivery by cable constitute operations of a "radio station", within the meaning of the Federal Communications Act.

Attention is drawn to this suit which is still *sub judice* because it shows that the problem of protection against rebroadcasting for programmes exists in the United States as well as in Europe, and that it is thus arguable that the future international Convention on ancillary rights, if applied in the country of origin, might be of value even to broadcasters in America.

BOOK REVIEWS

RECENT PUBLICATIONS

Copyright in Motion Pictures

A German Translation of the British Copyright Act 1956

Continuing the publication of the little blue-backed volumes that look like further instalments of his magazine, Mr. Georg Roeber, the industrious editor of the *Archiv für Urheber-, Film-, Funk- und Theaterrecht*, has now found room in his collection of monographs for two absorbing studies, both of which are devoted to cinematographic works. Mr. Siegfried Haeger, of Munich, discusses the film as a composite work to which several associates bring their contributions¹; Mr. Paolo Greco, professor at the University of Turin and an eminent jurist well known in EBU circles, examines the structure of cinematographic works and their place in the legal fabric of copyright².

The problems that cropped up in the field of copyright upon the coming of the cinema were like the mushrooms that spring up after a downpour—there was really too much of a good thing. The number of articles on this or that question connected with films is so great that it takes a brave man to pick and choose among this bumper crop, though not for fear of poisonous toadstools, if we can make our metaphor do duty again. Where Mr. Haeger scores is in giving us an over-all picture of the subject; we trustingly follow the guide, appreciating in him the patience of the researcher and the authority of the connoisseur. Leaving aside the documentary—which may well become a good deal more important as time goes on—the cinematographic work is of a kind with opera or musical comedy, in that it has recourse to actors and a musical accompaniment to present the action. But one major difference is at once apparent, and that is that the adaptation of the setting to the plot is much more marked than in the dramatico-musical work. The link existing between the various constituents of the film endows it with an undeniable artistic unity, without concealing the variety and multiplicity of the component services and contributions which have gone into the finished product.

This is seemingly the reason why Mr. Haeger and a number of other German lawyers, particularly Mr. Runge, the author of a very conscientious recent work

on copyright, have canvassed the idea that the film, as a collective work, must have a "*Gesamturheber*", a collective creator, a title and a function that they vest in the *Hersteller* or maker of the film, who may of course be a company instead of an individual. The understanding is still that the film maker will have to secure the assignment of the rights of the various joint authors, however. This approach, for all its finesse, tends to establish the primacy of business considerations in the making of the film. The increasingly huge and costly resources and facilities which are nowadays the determining factor in several types of human work necessarily conduce to a certain degree of "collectivisation". Even in the laboratories scientific research is conducted largely on the same massive basis, with teams of scientists launching a concerted offensive on problems like an army going into battle. I am therefore inclined to think that Mr. Haeger's theory is based on an accurate appreciation of the facts; but while artistic creation may thus be organised because the subject of protection partakes of the complexity inherent in modern life, it must not be forgotten that when all is said and done, the decisive impetus will always come from the individual. In the scientific field itself it was recently recalled by Professor Muralt, the Chairman of the Swiss National Council for Scientific Research, that even today development in depth came from the individual researcher, often working alone. *A fortiori* we should beware of minimising the role of the artist in group creation, as in the case of creation in motion pictures. The *droit moral*, considered as a privilege designed to safeguard the integrity of the work, may sometimes be liable to restrictions that the associates in the film can hardly hope to overcome. On the other hand, the right to be mentioned in the credit titles of the film (another aspect of moral rights) does not conflict with any economic or commercial considerations, and this opens up an avenue which will enable the role of the intellect to be maintained alongside, rather than in thrall to, Mammon.

In any case, I fancy that matters are already taking such a turn. Before the film is exhibited the cinema audience is kept regularly posted on the producing firm, the director or artistic manager, the other associates and the main members of the cast. This list, often a long one, gives everyone pretty much his due, and the public endorses the suggested hierarchy of activities and values. One only has to glance at film criticisms in the papers: the critics are coming to designate pictures by their title (which is nothing unusual), but also by the name of the chief film director (which is quite characteristic).

As I see it, Professor Greco takes a slightly different line from Oberregierungsrat Haeger. Anxious not to

¹ Siegfried Haeger: *Der Film als Gesamtwerk*. Schriftenreihe der UFITA, Heft 9. Baden-Baden, Verlag für Angewandte Wissenschaften, 1958.

² Paolo Greco: *Die Filmwerke — ihre Struktur und ihre Stellung im Urheberrecht*. Schriftenreihe der UFITA, Heft 10, Baden-Baden, Verlag für Angewandte Wissenschaften, 1958.

lessen the role of labour to increase that of capital, he considers that copyright in the film belongs to the creators who jointly produce the work, a work which forms a whole in which the component parts are nevertheless clearly distinguishable. Greco is definitely opposed to a copyright for the film maker, though I have the impression that what he is really against is the device of vesting copyright initially in the maker as original owner, i.e. a construction which is not, methinks, that of Mr. Haeger. According to Greco—as indeed everyone would at first sight agree—the original owner of a work can only be the author of that work, this principle being valid in the absolute sense, and hence for cinematographic works as well. Nevertheless, I would not think it impossible to give an overriding right, via a whole series of assignments, to the producer or film maker, who would then be invested with a bevy of rights to justify his title of “collective author”. One inaccuracy would remain, but it could easily be repaired: the film maker is not the author but rather the copyright holder. In observing that as a rule the pecuniary and commercial rights end up in the possession of someone who is not the author, Professor Greco has in fact only a difference of terminology between himself and Mr. Haeger. This assignee who acquires the rights of the creative contributors to the film can fairly be called the “collective author” by putting a slightly different meaning on the word “author”, though there is nothing wrong with the word “collective” in this context.

Messrs. Haeger and Greco are therefore not far from agreement on the way in which the motion picture producer accedes to the key position which he requires. In Britain, on the other hand, the law-makers have had

no compunction about giving legal sanction to the theory of the maker as original owner of the film copyright. They could do this without too obviously upsetting the apple cart on account of the fact that in Great Britain *droit moral* is not the especial apanage of copyright, as it is elsewhere, but instead is merged into the right to honour and reputation in general. Granting the film maker a pecuniary right at first hand is thus of less significance than if *droit moral* was involved. For all that, the creative act which brings the work into being reveals the inalienable personality of the author, and it is for this reason that the example of the United Kingdom is not likely to catch on in Continental Europe.

The fact remains that the new Copyright Act, 1956, will repay study on this specific point and as regards the rest of its provisions. The International Copyright Society, whose headquarters is in Germany, has had the bright idea of publishing a very precise German translation of this enactment, with a first-rate introduction by Mr. S. J. Rubinstein, a London solicitor and member of the Legislation Committee of the CISAC, the International Confederation of Authors' and Composers' Societies¹. This volume, published by Franz Vahlen in Berlin and Frankfurt, is a valuable research tool, prepared by a committee which includes the names of Professor E. D. Hirsch Ballin, the author of the translation, and Mr. Buchen, a Justice of Appeal, who deserves the credit for establishing the concordance between the English and German concepts of law.

B. M.

¹ *Copyright Act, 1956 (Deutsche Übersetzung)*. Berlin and Frankfurt, Franz Vahlen, 1958.

E.B.U. ACTIVITIES

NINTH SESSION OF THE LEGAL COMMITTEE AND TWENTY-FIRST MEETING OF THE BUREAU OF THE COMMITTEE

The Ninth Ordinary Session of the Legal Committee was held in Heidelberg from 25th to 27th September 1958, and was attended by seventeen active and associate members. The Chair was taken by Mr. Lenoble (RTF), assisted by the two Vice-Presidents, Professor Greco (RAI) and Dr. Brack (ARD). The session was preceded by the 21st Meeting of the Bureau of the Committee, a one-day meeting on 24th September devoted to preliminary work on certain of the items on the agenda of the plenary Committee.

The Committee's order of business was a very exacting one, but it succeeded in dealing with all 14 items on its

agenda, on which ten working documents had been prepared. A few examples of the type of question discussed are given below.

The activities of the Council of Europe, and its Committee of Legal Experts to examine the obstacles to the exchange of television programmes in particular, naturally took pride of place in the debate. In this connection the Committee was led to recommend the Administrative Council of the EBU to take the necessary steps to ensure early ratification of the European Agreement drawn up by the above-mentioned Committee of Experts with a view to facilitating exchanges of television programmes on film. With reference to the second problem dealt with by the Committee of Experts, namely the international line of demarcation between the fields of *grands droits* and *petits droits*, the Committee requested

the Administrative Council to adopt a policy calculated to lead to agreement with the other parties concerned, and only to revert to the original recommendation of the Council of Europe Committee of Experts in the event that the other parties did not give the compromise text their unqualified support ¹.

Recent events would so have it that the Committee should give careful consideration to the new developments in connection with the international protection of ancillary rights. As announced earlier ², the three inter-governmental organisations interested in the preparation of a Convention for the protection of ancillary rights have gone over to the idea of having two Conventions, a new idea whose implications call for special attention by those primarily affected. The Legal Committee examined the political and procedural aspects of the problem at length and elaborated a set of recommendations for the guidance of the Administrative Council in its decisions.

Since it became possible in East-West exchanges to delete the eastern zone of Germany, Hungary, Poland and Czechoslovakia from the "stop list" attached to the contracts with the music publishers, the problems involved in such exchanges persist only in relation to Bulgaria, Rumania and the U.S.S.R. EBU efforts to overcome the obstacles even for this latter region of Eastern Europe have not been crowned with success; the Legal Committee could not but record this fact and propose that the Administrative Council should have regard to this as yet unfilled gap in reaching its decisions.

Certain legal aspects of Eurovision claimed a good share of the discussion in the Committee, a delegation from which had previously solicited the views of the Programme Committee on this matter. Two questions in particular had occurred to the EBU lawyers, the first relating to the international Agreement between the EBU and the international performers' Federations ³ and the second concerning the circulation of tele-recordings made with or without the help of professional performers. The Committee put up to the Administrative Council a series of recommendations, one of which states a body of rules with which the Programme Committee is in full agreement and which should govern the offer and use of television recordings of all kinds.

The experience gained on the legal plane during the negotiations for television rights to the world football championship was turned to account in tightening up the rules that would in future apply to negotiations with organisers of sporting events of international importance. These rules, which parallel those drawn up by the Programme Committee, relate especially to the composition of any EBU Committee negotiating arrangements for the transmission of such events and the essential clauses

to appear in any contract thus concluded. The rules were submitted to the Administrative Council for approval.

With the extraordinary General Assembly of the EBU to revise the Statutes not far off, the Legal Committee re-examined certain provisions under revision which have to do with the membership and working of the Committees, Bureaux and Working Groups. Specific texts were drawn up and laid before the Administrative Council, together with a recommendation directed to a careful review of the French and English versions of the Statutes for concordance.

Once again the Committee had on its agenda certain questions which conveniently fall under the heading of "freedom of information". The debate revealed a divergence of views and the problem remains under consideration, as various additional material must still be obtained before it can be regarded as being ripe for a decision.

The proceedings of the Permanent Committee of the Berne Union and the Unesco Intergovernmental Committee, both recently meeting in Geneva, were reviewed and instructions in this regard were given to the EBU Administrative Office.

Lastly, the Committee proceeded to elect its Bureau and its President and Vice-Presidents for the coming period of office. During the financial years 1959/1960 the Bureau of the Committee will consist of the broadcasting organisations of Belgium, Denmark, France, Germany, Italy, the Netherlands, Switzerland, the United Kingdom and Yugoslavia, the only change being that Denmark takes the place of Sweden. In view of the increasing interest taken by member organisations in the Bureau's activities it was also decided to allow all members to keep themselves informed of its work and thus remain abreast of developments in the legal sphere.

The Committee unanimously gave a further mark of its confidence in M. Lenoble, the outgoing President, and in Professor Greco and Dr. Brack, the outgoing Vice-Presidents, who will thus remain in office for a further period of two financial years.

The BBC very kindly invited the Committee to hold its 10th statutory session next autumn in Great Britain. The Bureau of the Committee will meet in Yugoslavia in the spring, on the invitation of the Yugoslav broadcasting organisation.

SIXTH PLENARY SESSION OF THE PROGRAMME COMMITTEE AND TWELFTH MEETING OF THE BUREAU OF THE PROGRAMME COMMITTEE

Under the chairmanship of the President, Mr. Marcel Bezençon, assisted by Mr. Cecil McGivern, Vice-President—Mr. Jean d'Arcy being detained in Paris for professional reasons—and Mr. Charles Gilliéron, Director of the Administrative Office and Secretary to the Committee

¹ The text of this recommendation was reproduced in the *EBU Review*, No. 47b, p. 45.

² *EBU Review*, No. 51b, p. 27.

³ The text of this Agreement was published in *EBU Bulletin*, No. 42, p. 115.

the Programme Committee held its plenary session on 30th October 1958 in Wiesbaden, at the kind invitation of Mr. E. Beckmann, Intendant of Hessischer Rundfunk.

As is customary, this session had been preceded by meetings of Working Parties GTV/1 (Exchanges on Film) under its rapporteur, Mr. S. Pugliese, and GTV/2 (Direct Exchanges) under its rapporteur, Mr. J. d'Arcy, and the Bureau of the Programme Committee under the chairmanship of Mr. M. Bezençon.

The agenda of the various bodies were particularly heavy and almost all the members of the Union were present or represented at these meetings. A delegation from the Legal Committee, composed of Dr. H. Brack, Vice-President, and Dr. G. Straschnov, Secretary, attended the meetings on 22nd September to examine with the programme specialists legal problems posed by Eurovision and the administrative and financial conditions of exchanges of filmed material. Working Party L of the Technical Committee was represented by Mr. J. T. Dickinson, Chief Engineer, Assistant to the Director of the Technical Centre, who attended the meetings of GTV/1 and GTV/2.

The Technical Committee held its meetings in Wiesbaden some days later and the Programme Committee was represented at these meetings by Mr. F. Lawaetz and Mr. H. von Plato. It is interesting to point out these facts which demonstrate the excellent coordination existing between the three Committees of the Union.

Eurovision programme statistics for the period from 1st January to 30th June 1958 show that 101 programmes were relayed, representing an average of four a week. The total number of hours of transmission was 135. Sweden joined the Eurovision network, as indicated in No. 50b of the Review, on 1st June this year.

The question of relations with the organisers of sporting events was studied very carefully during the meetings and practical solutions were reached which will be communicated to members through the usual channels.

As regards relations with the organisers of cultural events of international significance, the Programme Committee studied the question of the Union's participation in the Prix of Salzburg, the Festival of Cannes, and the special programmes of the United Nations, the International Labour Organisation and the Council of Europe.

The matter of educational television in general and

television for schools was the subject of an interesting discussion and the whole question was referred to Working Party GTV/1 and its rapporteur Mr. Pugliese.

Staff training also figured on the agenda of the meetings. The courses organised by the RTF in 1957 met with such great success that the latter was asked to organise others of the same kind in 1959, for stage-managers. A request was made that articles, possibly illustrated, dealing with television design and production, should be published in the Union's Review. Indeed, the new format of the Review makes it possible to publish photographs and diagrams illustrating the problems posed by television in the field of design and production.

Documentary film series in progress are: *High Places of the Mind*, *Scientific Curiosities*, *Le Cinéma dans le Monde*, *Le Tour du Monde par deux Enfants*, as well as the *International Agricultural Newsreel* and the *International Children's Newsreel* which have been highly successful.

Exchanges of news film over the Eurovision network were announced by Mr. J. W. Rengelink, to be carried out on an experimental basis in October with the participation of five organisations.

The Grand Prix of the Eurovision Song Contest will be held in Cannes on 11th March 1959. The Rules have been slightly modified so that each national jury shall, in so far as is possible, consist of spectators representing the public, to the exclusion of professional composers and publishers. The Programme Committee approved, provisionally, the offer of a second prize by French radio and television critics, to be awarded not for the best song but for some other aspect, such as the best interpretation.

A number of other extremely interesting projects was submitted by members of the Union and they are being studied. We feel sure they will provide those participating in Eurovision exchanges with valuable programme material.

The Administrative Council, meeting at the Union's headquarters in Geneva on 25th and 27th October, confirmed in their entirety the recommendations of the Legal Committee and the Programme Committee and the proposals prepared for submission to the 9th ordinary session of the General Assembly. We shall refer to these meetings in the next number of the Review.

In Part A (Technical) of E.B.U. Review No. 52 you will find :

- an article by Fr. Heegaard on a compatible system of stereophonic broadcasting;
- an article on Canada's trans-continental television network;
- an article by J. M. Reeves on broadcasting in the Federation of Rhodesia and Nyasaland;
- various items of information on the technical activities of different broadcasting and television organisations :
 - the different types of outside broadcast vehicles in operation in Federal Germany, the remote control of low-power transmitters in Austria by means of the public automatic telephone system, a common transmitting aerial for medium waves and television in Japan, the replacement of medium-wave local-service transmitters by frequency-modulated transmitters in Spain, the RAI mobile film unit, the technical arrangements for broadcasting the world football championships 1958, the new direct television link between France and Switzerland;
- the situation in the long- and medium-wave spectrum at 1st November, 1958;
- the list and map of television stations in the German Federal Republic;
- a short account of the tenth meeting of the EBU Technical Committee (at Wiesbaden).

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 Nord- und Westdeutscher Rundfunkverband
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 Sender Freies Berlin
 Süddeutscher Rundfunk
 Südwestfunk
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Iceland — Ríkisútvarpið
Ireland — Radio Eireann
Israel — Israel Broadcasting Service
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 Algemene Vereniging Radio-Omroep
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United States — US Information Agency
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(CAHIER B — GÉNÉRAL ET JURIDIQUE)

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